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CHIEF COUNSEL AND STAFF DIRECTOR

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

JO BONNER, ALABAMA
RANKING REPUBLICAN MEMBER

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CHARLES W. DENT, PENNSYLVANIA
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MICHAEL T. McCAUL, TEXAS

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Committee on Standards of Official Conduct

Adjudicatory Subcommittee in the Matter of Representative Charles B. Rangel

Adjudicatory Subcommittee Meeting

July 29, 2010

ZOE LOFGREN, CALIFORNIA
CHAIR

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July 22, 2010

CONFIDENTIAL

Representative Zoe Lofgren, Chair
Representative Jo Bonner, Ranking Republican Member
Committee on Standards of Official Conduct
The Capitol, Room HT-2
Washington, D.C. 20515

Re: Investigation of Representative Charles B. Rangel

Dear Chair Lofgren and Ranking Republican Member Bonner:

Pursuant to Standards Committee Rule 22(g), the Investigative Subcommittee concerning Representative Charles B. Rangel (Respondent) hereby transmits the following:

1. Statement of Alleged Violation adopted June 17, 2010;
2. Respondent's Motion for Bill of Particulars;
3. Investigative Subcommittee Order on Motion for Bill of Particulars and Memorandum in Support of Order;
4. Respondent's Motion to Dismiss;
5. Investigative Subcommittee Order on Motion to Dismiss and Memorandum in Support of Order; and
6. Investigative Subcommittee Report regarding Matters within its Jurisdiction on Issues Not Referenced in Statement of Alleged Violation.

On July 21, 2010, Respondent submitted "Respondent's Answer and Defenses to Statement of Alleged Violation." The submission was not signed under oath, as required by Committee Rule 22(a)(1), and, therefore, does not constitute an "answer" within the Committee rules. Respondent was provided an opportunity to cure the defective filing, but he did not. Pursuant to Committee

Rule 22(a)(1), Respondent's failure to file an answer shall be considered a denial of each count contained in the Statement of Alleged Violation.

The Investigative Subcommittee's Inquiry

The Statement of Alleged Violation was adopted following an extensive 21-month investigation. The Investigative Subcommittee and its staff took the following actions as part of its inquiry: (1) conducted 49 formal interviews of 41 witnesses, as well as additional informal interviews; (2) issued over 160 formal document requests and subpoenas, in addition to informal requests for documents; (3) reviewed over 28,000 pages of documents and testimony; and (4) held more than 60 investigative subcommittee meetings.

The Investigative Subcommittee was empaneled on September 24, 2008. The scope of the inquiry was whether Respondent had violated the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities with respect to the following:

1. Using official resources to transmit letters in 2005, 2006, and 2007 to potential donors to the Charles B. Rangel Center for Public Service at the City College of New York;
2. Apartment units leased by Representative Charles B. Rangel in the Lenox Terrace apartment complex located in Harlem, New York;
3. Representative Charles B. Rangel's financing of his ownership interests in a guest unit within the Punta Cana Yacht Club located in Punta Cana in the Dominican Republic and his compliance with financial disclosure requirements regarding that property; and
4. Representative Charles B. Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area.

The scope of the Investigative Subcommittee's inquiry was expanded on two occasions. On December 9, 2008, the scope was expanded to include:

[C]ontributions of money or pledges of contributions of money to the Charles B. Rangel Center for Public Service at the City College of New York from any person or entity associated with Nabors Industries.

On October 8, 2009, the scope of the Investigative Subcommittee's inquiry was expanded to include "all Financial Disclosure Statements and all amendments filed in calendar year 2009 by or on behalf of Representative Charles B. Rangel pursuant to Title I of the Ethics in Government Act."

Delays in Investigative Subcommittee Inquiry

The inquiry was delayed in several instances by the actions of Respondent and his counsel, particularly with respect to the production of documents and a forensic accountant's report.

For example, on October 8, 2008, the Investigative Subcommittee made its first written request to Respondent for documents. The request had a return date of October 28, 2008. While Respondent did begin producing documents on that date, all of the responsive documents were not produced until December 11, 2008. In another instance, the Investigative Subcommittee requested documents from Respondent on April 15, 2010. Respondent, through his counsel, refused repeated requests for those documents, necessitating the need for service of a subpoena on Respondent. After the subpoena was served, the documents were produced on June 10, 2010. In several other instances, Respondent produced documents after the return date set by the Investigative Subcommittee. Even when the delay was not significant, Respondent's failure to abide by the deadlines set by the Investigative Subcommittee was troubling.

Another event that caused a significant delay in the investigation was Respondent's assertion of certain privileges, set forth in a 40-page privilege log. The log was not produced until May 29, 2009. After the Investigative Subcommittee and Respondent reached an agreement that permitted subcommittee counsel to review certain documents, subcommittee counsel reviewed certain documents for which privileges had been asserted. Upon review of the documents, counsel determined that many of the claims of privilege were, in fact, not valid. A review of those materials led to the interview of additional witnesses, which could have been completed earlier but for Respondent's improper claims of privilege as to those documents.

The inquiry was further delayed pending receipt of a forensic accountant's report, which Respondent volunteered to produce. In September 2008, Respondent publicly announced his intention to hire a forensic accountant. Respondent issued a press release on November 13, 2008, stating that he had retained a forensic accounting firm to review his Financial Disclosure Statements and tax returns. The accountant's report was not sent to the Investigative Subcommittee until May 12, 2009, six months after Respondent's public statements. Respondent submitted amended Financial Disclosure Statements for the calendar years 1998 through 2007, as well as his original Financial Disclosure Statement for calendar year 2008, on August 12,

2009, almost one year after Respondent publicly pledged to correct his Financial Disclosure Statements.

Summary of Results of Investigative Subcommittee Inquiry

Upon completion of the witness interviews, staff prepared a comprehensive memorandum for the Investigative Subcommittee in accordance with Standards Committee Rule 19(e). The Investigative Subcommittee met numerous times, often for several hours, to discuss the evidentiary record and potential charges. Ultimately, on May 25, 2010, the Investigative Subcommittee reached an agreement regarding a Statement of Alleged Violation that it intended to adopt. The proposed Statement of Alleged Violation, as well as the items required to be produced pursuant to Standards Committee Rules 25 and 26(c), was provided to Respondent on May 27, 2010, following execution by Respondent and his counsel of a non-disclosure agreement.

On June 17, 2010, the Investigative Subcommittee voted to adopt the Statement of Alleged Violation. The Statement of Alleged Violation is comprised of 13 counts. The charges in the Statement of Alleged Violation relate to four general subject matters: (1) solicitations and donations to the Rangel Center for Public Service at the City College of New York (CCNY); (2) errors and omissions on Respondent's Financial Disclosure Statements; (3) use of a rent-stabilized residential apartment by Respondent's campaign committees; and (4) failure to report and pay taxes on rental income on Respondent's Punta Cana beach villa.

With respect to the solicitations and donations to the Rangel Center, the Investigative Subcommittee determined that Respondent made both written and verbal solicitations on behalf of the Rangel Center for Public Service at CCNY. He did not follow Standards Committee guidance regarding solicitations on behalf of § 501(c)(3) organizations. Accordingly, the Investigative Subcommittee found a substantial reason to believe that Respondent's solicitations, as well as the resulting gifts, violated the Solicitation and Gift Ban (5 U.S.C. § 7353).

Respondent solicited both foundations and corporations. Both foundations and the solicited corporations had business and interests before the House during the period at issue. In some instances, lobbyists on behalf of the corporations were communicating with Respondent's staff about both legislative issues and potential donations to the Rangel Center. The resulting donations create an appearance of impropriety. The Investigative Subcommittee found a substantial reason to believe that Respondent's conduct "might be construed by reasonable persons as influencing the performance of his governmental duties" in violation of clause 5 of the Code of Ethics for Government Service.

The donors solicited by Respondent contributed in excess of \$8 million to the Rangel Center. Although the contributions were made by the donors to the CCNY, the contributions benefited Respondent. The plans for the Rangel Center include a “well-furnished office for Congressman Rangel” and an archivist/librarian to organize and maintain Respondent’s congressional papers. The donations provided benefits to Respondent, even if done indirectly, and Respondent knowingly accepted those benefits. The Investigative Subcommittee found a substantial reason to believe that Respondent’s conduct violated the House gift rule (House Rule XXIII, clause 4).

Respondent’s congressional staff prepared numerous solicitation letters, on congressional letterhead, which were mailed using Respondent’s frank. In addition, Respondent’s staff worked with CCNY on an ongoing basis, assisting with earmarks and meetings between Respondent and potential donors. The work was done on House property, using official resources such as staff time, official House telephones and email accounts, and other office equipment and supplies. The Investigative Subcommittee found a substantial reason to believe that the following were violated: (a) Postal Service Laws (39 U.S.C. §§ 3210, 3215) and Franking Commission Regulations; (b) the Franking Statute (18 U.S.C. § 1719); (c) House Office Building Commission’s Regulations; (d) the Purpose Law (31 U.S.C. § 1301) and the Member’s Congressional Handbook; and (e) the Letterhead Rule (House Rule XXIII, clause 11).

With respect to the errors and omissions on Respondent’s Financial Disclosure Statements, the Amended Financial Disclosure Statements filed by Respondent in August 2009 demonstrate the numerous errors and omissions contained in his original Financial Disclosure Statements for calendar years 1998 through 2007. In addition, Respondent’s Financial Disclosure Statement for calendar year 2008 failed to include a reportable position. Respondent chose not to file an amendment to that Financial Disclosure Statement, despite being informed of the omission by Standards Committee staff. The Investigative Subcommittee found a substantial reason to believe that Respondent’s errors and omissions in his Financial Disclosure Statements for calendar years 1998 through 2008 violated the Ethics in Government Act (5 U.S.C. app. §§ 101-105) and House Rule XXVI.

With respect to the issues surrounding Respondent’s use of rent-stabilized apartments at Lenox Terrace, the Investigative Subcommittee found substantial reason to believe that Respondent’s non-conforming use of a rent-stabilized apartment for his campaign committees violated clause 5 of the Code of Ethics for Government Service. By accepting the rent-stabilized apartment for a non-conforming use, Respondent received a favor or benefit from the Olnick Organization, an entity with which Respondent had interactions in his official capacity.

The Investigative Subcommittee found, and Respondent has acknowledged, that he failed to report rental income from his Punta Cana villa on his Federal income tax returns for many years. The Internal Revenue Code requires the reporting of “all income from whatever source

derived” Respondent’s failure to report, and pay tax on, the Punta Cana rental income violated the tax laws. Clause 2 of the Code of Ethics for Government Service provides that individuals in Government service should “uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.” In addition to violating the tax laws, Respondent’s conduct also violated the Solicitation and Gift Ban (5 U.S.C. § 7353), the Postal Service Laws (39 U.S.C. §§ 3210, 3215), the Franking Statute (18 U.S.C. § 1719), the Franking Commission Regulations, the House Office Building Commission Regulations, the Purpose Law (31 U.S.C. § 1301), the Member’s Congressional Handbook, and the Ethics in Government Act (5 U.S.C. app. §§ 101-105). As such, the Investigative Subcommittee found substantial reason to believe that Respondent’s conduct also violated clause 2 of the Code of Ethics for Government Service.

Clause 2 of the Code of Conduct requires Members to comply with the letter and the spirit of the House Rules. Respondent’s conduct violated clause 4 of House Rule XXIII (gift rule), clause 11 of House Rule XXIII (letterhead rule), and House Rule XXVI (financial disclosures). The Investigative Subcommittee found substantial reason to believe that Respondent’s conduct violated clause 2 of the Code of Conduct.

Respondent’s pattern of indifference or disregard for the laws, rules and regulations of the United States and the House of Representatives is a serious violation. The Investigative Subcommittee found substantial reason to believe that Respondent’s actions and accumulation of actions did not reflect creditably on the House in violation of clause 1 of the Code of Conduct.

Matters within the Jurisdiction of the Investigative Subcommittee but not addressed in the Statement of Alleged Violation

The Investigative Subcommittee’s inquiry covered the six subject matters identified by the Standards Committee in its jurisdictional statements of September 24, 2008; December 9, 2008; and October 8, 2009. The Statement of Alleged Violation makes reference to five of those subject matters.

The remaining subject matter, Respondent’s compliance with Committee on House Administration (House Administration) Rules regarding storage of a vehicle in House parking facilities, is not referenced in the Statement of Alleged Violation. The Investigative Subcommittee has adopted the enclosed report which addresses this subject matter. The report recommends to the Standards Committee that no further action be taken against Respondent regarding his compliance with House Administration Rules regarding storage of a vehicle. The report further recommends that the Standards Committee consider making a recommendation to House Administration that House Administration examine its rules regarding parking and enforcement of those rules.

Public Statements by Respondent

The Investigative Subcommittee was troubled by a number of public statements that Respondent made during the course of its investigation. Most notably, he made misleading statements on two recent occasions. Speaking to the press on June 6, 2010, Respondent stated:

I would normally believe, being a former federal prosecutor, that if the allegations involve my conduct as a member of the House and there is a committee with Republicans and Democrats there, then that [sic] you refer to the committee. And if they're so confused after 18 months that they can't find anything, then that is a story.

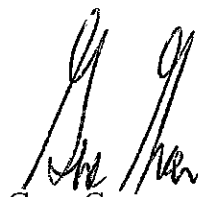
That statement was made nine days after the Investigative Subcommittee had transmitted a copy of the proposed Statement of Alleged Violation to Respondent.

Respondent made another misleading statement on "Good Day New York" on July 7, 2010, when he stated, "There is no accusation against me doing something wrong except by the press." This statement was made 21 days after the Statement of Alleged Violation had been adopted by the Investigative Subcommittee and transmitted to Respondent.

Due to the Standards Committee rules regarding confidentiality, the Investigative Subcommittee was unable to publicly respond to these inaccurate comments.

Conclusion

The Statement of Alleged Violation is the result of the Investigative Subcommittee's 21-month investigation. The Investigative Subcommittee has spent a significant amount of time closely examining the factual and legal issues involved in this matter, and believes that it has made appropriate and justified determinations regarding those issues.



Gene Green
Chairman

Sincerely,



Jo Bonner
Ranking Republican Member

Enclosures: Statement of Alleged Violation adopted June 17, 2010
Respondent's Motion for Bill of Particulars
Investigative Subcommittee Order on Motion for Bill of Particulars and
Memorandum in Support of Order
Respondent's Motion to Dismiss
Investigative Subcommittee Order on Motion to Dismiss and Memorandum in
Support of Order
Investigative Subcommittee Report regarding Matters within its Jurisdiction on
Issues Not Referenced in Statement of Alleged Violation

UNITED STATES HOUSE OF REPRESENTATIVES
Committee on Standards of Official Conduct
Investigative Subcommittee

In the Matter of

Representative Charles B. Rangel

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RESPONDENT’S MOTION FOR BILL OF PARTICULARS

Pursuant to Rule 22(b) of this Committee’s Rules of Procedure, Respondent Charles B. Rangel, by counsel, respectfully moves the Investigative Subcommittee to furnish him with a bill of particulars as to the Statement of Alleged Violation (“SAV”) served upon him on June 17, 2010 as follows:

1. With regard to the allegations in paragraphs 25-26, 31, 36, 38, 40-42, 49, 55, 61, 63, 65, 73, 74-75, 78, 81, 90-92, and 172-73 of the SAV, Respondent requests that the Investigative Subcommittee provide the following information with particularity:
 - a. On what dates did each of the entities or individuals referenced in these paragraphs do business with the House, what was that business and during what period of time was that business pending?
 - b. On what dates did each of these entities or individuals have interests that might be substantially affected by the performance or nonperformance of Respondent’s official duties, what were those interests and during what period of time were those interests pending?

- c. On what dates did each of these entities or individuals seek official action from the House, what was that official action and during what period of time was the request pending?
 - d. As to each of the foregoing identify the person or persons who communicated on behalf of the entity or person listed in the above-referenced paragraphs and identify the Member or Members of Congress and/or Committee and/or staff members with whom those communications occurred.
 - e. As to each letter or personal communication alleged in the above-reference paragraphs and/or alleged solicitation referenced in paragraph 188, identify each recipient's pending business before the House or request for official action or then existing interest that could be substantially affected by Respondent's performance of his official duties.
2. With respect to the allegation in paragraph 48, provide the date "in early 2006" on which you alleged Respondent suggested that CCNY officials contact AIG and for that date provide the information requested in paragraph 1.
3. With respect to the allegation in paragraph 80, state the dates of the meetings attended by Respondent, identify for each any others in attendance, and describe the substance of the communications.
4. For each issues listed in paragraph 88, specify when it was pending, how it was raised and by whom, and which entity or individual identify in the paragraphs cited in number 1 above were affected by the issue.
5. To what issues does paragraph 88 refer by the use of the term "inter alia" and provide for each the information requested in paragraph 4 above?

6. State the monetary value to Respondent of each direct or indirect “gratuity, favor, discount, entertainment, hospitality, loan, forbearance or other item having monetary value” alleged in paragraph 190.

MEMORANDUM OF POINTS AND AUTHORITIES

The grounds for this motion are set forth in Committee Rule 19(f) and the Due Process Clause of the Fifth Amendment to the United States Constitution together with principles of fundamental fairness. The requested information is necessary to give Respondent fair notice of the charges and a meaningful opportunity to prepare a defense.

Dated: June 22, 2010

Respectfully submitted,

/s/

Leslie B. Kiernan
Deborah J. Jeffrey
Jason Knott
ZUCKERMAN SPAEDER LLP
1800 M Street, NW
Washington, DC 20036
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Attorney for Respondent

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT
INVESTIGATIVE SUBCOMMITTEE

In the Matter of)
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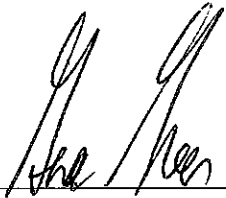
REPRESENTATIVE CHARLES B. RANGEL,)
)
)

Respondent.)
_____)

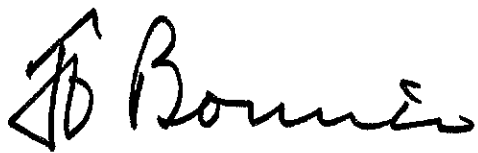
ORDER

UPON CONSIDERATION OF Respondent's Motion for a Bill of Particulars,
Memorandum of Points and Authorities, and the entire record herein, it is by the Investigative
Subcommittee this 23rd day of June, 2010, ORDERED

That the Motion is DENIED.



Gene Green
Chair



Jo Bonner
Ranking Republican Member

Copies to:

Leslie B. Kiernan, Esq.
Zuckerman Spaeder, LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT
INVESTIGATIVE SUBCOMMITTEE**

In the Matter of)

REPRESENTATIVE CHARLES B. RANGEL,)

Respondent.)

MEMORANDUM IN SUPPORT OF ORDER

On June 22, 2010, Respondent submitted to the Investigative Subcommittee a Motion for Bill of Particulars with respect to the Statement of Alleged Violation adopted by the subcommittee on June 17, 2010. By a separate Order, the Investigative Subcommittee denied Respondent's Motion for Bill of Particulars on June 23, 2010. Through this Memorandum the Investigative Subcommittee sets forth the bases for its Order denying Respondent's motion and, although not required to do so, provides certain of the information requested in Respondent's Motion.

STANDARD OF REVIEW

A Statement of Alleged Violation must be sufficiently particularized to advise a Respondent of the allegations against him and to afford him a meaningful opportunity to respond to those allegations.¹ A Motion for a Bill of Particulars may be denied where the Investigative Subcommittee determines that its Statement of Alleged Violation meets this standard.²

ANALYSIS

For the reasons set forth below, the Investigative Subcommittee has found that the Statement of Alleged Violation adopted by the Investigative Subcommittee on June 17, 2010, provides Respondent with sufficient notice of the allegations against him and affords Respondent a meaningful opportunity to respond to those allegations. Therefore, Respondent's Motion for a Bill of Particulars is is denied. Although not required to do so, the Investigative Subcommittee, by and through this Memorandum, is providing certain additional information requested by Respondent.

¹ Comm. on Standards of Official Conduct, *In the Matter of Representative Jay Kim*, H. Rep. 105-797, 105th Cong., 2d Sess. at 806 (Oct. 8, 1998).

² *Id.*

With respect to each numbered request in Respondent's Motion for Bill of Particulars, the Investigative Subcommittee has found as follows:

Request No. 1

The Motion for Bill of Particulars first requests information regarding the business, interests, and requests for official action pending for persons solicited by Respondent, including specific dates on which such business, interests, and requests for official action were "pending." The request further asks for the identity of the individuals from each entity and each Member and/or staff who communicated with that entity regarding the business, interests, and official actions sought by those entities.

The Solicitation and Gift Ban³ provides that no Member "shall solicit or accept anything of value from a person – (1) seeking official action from . . . the individual's employing entity; or (2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties." The language "seeking official action from . . . the individuals' employing entity; or (2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties" is, by its terms, broad,⁴ and the Committee on Standards of Official Conduct (Standards Committee) has consistently, in unpublished advisory opinions, interpreted the language broadly.

The Select Committee on Ethics interpreted language which, while more narrow than the language of § 7353, provides guidance on the scope of § 7353. The Select Committee was interpreting the language "direct interest in legislation before the Congress" from former House Rule LXIII, clause 4, and found that the following individuals and organizations were deemed to have a direct interest in legislation before the Congress:

- (1) (a) Any person, organization or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute; and any person who is an officer or director of a registered lobbyist, or a person who has been employed or retained by a registered lobbyist, or a person who has been employed or retained by a registered lobbyist for the purpose of influencing legislation before the Congress;
- (b) Any person, organization, or corporation which employs or retains a registered lobbyist;
- (2) Any corporation, labor organization, or other organization which maintain a separate, segregated fund for political purposes (Political Action Committee as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)); any subordinate or affiliated organization thereof; and the officers or directors of such organizations; and

³ 5 U.S.C. § 7353.

⁴ See *United States v. Sun-Diamond Growers*, 526 U.S. 398, 410 (1999) (characterizing § 7353 as broad).

- (3) Any other individual or organization which the Member, officer, or employee knows has a distinct or special interest in influencing or affecting the federal legislative process which sets such individual or organization apart from the general public.⁵

The Select Committee specifically rejected an interpretation of “before the Congress” that would require “an interest in a specific piece of legislation then pending before at least one subcommittee, or any other subdivision, of either House.”⁶ Instead, the Select Committee concluded that “the phrase . . . should be read broadly to include an ongoing special interest in affecting the legislative process.”⁷

The Standards Committee was faced with the question of what constituted “direct interest in legislation before the Congress” in a number of matters under former House Rule XLIII. In one matter, the Standards Committee found that a Member violated the gift rule by accepting a flight from a Florida savings and loan institution, stating: “[i]t is clear that Florida Federal is an entity with a ‘direct interest in legislation’ because it is federally regulated.”⁸ In another matter, the Standards Committee addressed whether an individual, Nelson Bunker Hunt, had a direct interest in legislation. The Committee found that Hunt’s interest in matters before Congress was “open and notorious.”⁹ “Given his wide and varied interest in matters before the Congress and the direct impact which the actions of Congress have upon his business activities, Nelson Bunker Hunt obviously is a person with a direct interest in legislation within the definition and intent of that term.”¹⁰

The language at issue in the Solicitation and Gift Ban is much broader than the language in former House Rule XLIII, clause 4. Any matter that would have constituted “direct interest in legislation before the Congress” will fall within the parameters of § 7353. But the § 7353 standards would also encompass many circumstances that the “direct interest in legislation” standard might not have reached.

Congress intended for the Solicitation and Gift Ban to be broad, particularly with respect to Members of Congress. It used language that was more sweeping than it had in previous statutes, and that language seems to cover everyone, all the time. While the statute does not speak of business before a particular committee (as opposed to the House generally), it bears noting that the one committee that touches everyone is the Ways and Means Committee. There being no committee on death, the only other certain thing in life is covered within the jurisdiction of the Ways and Means Committee.

⁵ House Select Comm. on Ethics, *Advisory Opinion No. 10* (reprinted in H. Rep. 95-1837), at 73.

⁶ *Id.* at 75.

⁷ *Id.* at 76.

⁸ Comm. on Standards of Official Conduct, *Investigation of Financial Transactions Participated In and Gifts of Transportation Accepted by Representative Fernand J. St. Germain*, H. Rep. 100-46, 100th Cong., 1st Sess., at 42 (Apr. 9, 1987).

⁹ Comm. on Standards of Official Conduct, *In the Matter of Representative George V. Hansen*, H. Rep. 98-891, Vol. 1, 98th Cong., 2d Sess., at 325 (July 19, 1984).

¹⁰ *Id.*

A broad interpretation of the phrases “seeking official action from the House” and “interests may be substantially affected by” language comports with the underlying purpose of § 7353, as well as laws such as the Code of Ethics for Government Service, which cautions all government employees against “circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.”¹¹

Given the breadth of the Solicitation and Gift Ban, the relevant inquiry is not what business or interest or official action was pending at a particular point in time. And it certainly is not which Members of Congress spoke to which employees or lobbyists representing a particular entity about an issue. The relevant inquiry is whether the person solicited had an interest in affecting the legislative process. In some instances, that will be reflected by lobbying on particular pieces of legislation. In other instances, there might be a request for a Member to intervene with a government agency. But it also includes recognizing the fact that most entities, including multi-national corporations and large foundations, will always have some interest in matters within the ambit of Congress. The performance or nonperformance of a Member’s official duties can affect the interests of those entities, and that effect can be substantial.

Considering the relevant inquiry, the information provided to Respondent in the Statement of Alleged Violation is sufficiently particularized. The Statement of Alleged Violation lists numerous examples of issues on which the solicited entities were lobbying Members of Congress during the relevant time period. That information alone is sufficient to establish that the entities solicited had interest, business, or were seeking official action from Congress within the parameters of the Solicitation and Gift Ban. No further information is needed in order for Respondent to respond to the Statement of Alleged Violation.

Request No. 2

Respondent’s second request asks for the same type of information as Request No. 1, but with respect to AIG. For the reasons set forth above, the Statement of Alleged Violation provides sufficient information regarding AIG.

In addition, Respondent requests the specific date on which Respondent suggested that CCNY officials contact AIG. Paragraph 48 of the Statement of Alleged Violation states that Respondent’s suggestion was made in “early 2006.” That description indicates the time period in which the conduct occurred, demonstrating that the conduct is within the jurisdiction of the investigative subcommittee. As previously discussed, the precise date on which a communication is made is not necessary for the investigative subcommittee to show that a violation of the Solicitation and Gift Ban, or any other violation set forth in the Statement of Alleged Violation, has occurred. Respondent has sufficient information from which to form a response to the Statement of Alleged Violation.

Request No. 3

Respondent requests further particularity with respect to paragraph 80 of the Statement of Alleged Violation, which states, “On numerous occasions during 2005 through 2008,

¹¹ 72 Stat., Part 2, B12 (1958), H. Res. 175, 85th Cong. (adopted July 11, 1958).

Respondent attended several meetings with CCNY officials and potential donors. These potential donors included Eugene Isenberg, Hank Greenberg, David Rockefeller, Donald Trump, the Ford Foundation, and AIG.” Certain meetings between Respondent and potential donors are further detailed in paragraphs 40, 55, 61-63, 75, and 78-79 of the Statement of Alleged Violation. Although, for the reasons stated above, it is not necessary to respond to the allegations in the Statement of Alleged Violation, the investigative subcommittee provides the additional information:

- Respondent met with David Rockefeller on October 22, 2007.
- Respondent met with Donald Trump on October 7, 2005.
- Respondent met with Donald Trump on May 4, 2007.

No further detail about any meetings, including all attendees and the substance of the conversations, is necessary for Respondent to form a response to the Statement of Alleged Violation.

Requests No. 4 and No. 5

Respondent requests further particularity with respect to paragraph 88 of the Statement of Alleged Violation, which states:

During the relevant period, issues before Congress affecting foundations included, inter alia, private foundation payout rules, excise tax rates on investment income, potential caps on foundation executive pay, IRA charitable rollover provisions, unrelated business income tax, and other charitable contribution and charitable governance issues.

Respondent first requests further information about each issue listed, including when the issue was pending, how it was raised and by whom, and which solicited persons were affected by the issue. For the reasons stated in response to Request No. 1, no further particularity is required in order for Respondent to respond to the Statement of Alleged Violation.

Respondent further requests a list of issues referred to by the use of the term “inter alia” in paragraph 88. Paragraph 88 does not attempt to list all issues that could possibly affect foundations, and, therefore, uses the term “inter alia.” Paragraph 88 does identify with sufficient particularity the issues that the investigative subcommittee has identified and intends to rely upon in support of the Statement of Alleged Violation. Respondent can form a meaningful response to the Statement of Alleged Violation without further particularity as to paragraph 88.

Request No. 6

Respondent requests the monetary value to Respondent of each direct or indirect gift referenced in paragraph 190 of the Statement of Alleged Violation. Paragraph 190 states

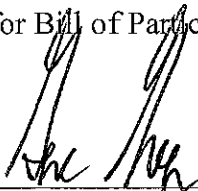
“Contributions to the Rangel Center constituted indirect gifts attributable to Respondent.” The Rules of the House of Representatives define a “gift” broadly as a “gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.”¹² While the definition includes items with a monetary value, there is no requirement that an item have monetary value in order to constitute a gift. As such, whether a gift has a monetary value, and the amount of that monetary value, is not information needed to respond to the Statement of Alleged Violation allegations charging a violation of the Gift Rule.

The Solicitation and Gift Ban applies to “anything of value.” The term “anything of value” has been interpreted synonymously with “thing of value.”¹³ As noted by the courts, “the pervasive use of [thing of value] in criminal statutes of both the states and the federal government has made it a term of art, covering intangible as well as tangible things.”¹⁴ The following are examples of “things of value”: amusement, promise of sexual intercourse, promise to reinstate an employee, agreement not to run in a primary election, testimony of a witness, and content of a writing.¹⁵ The term “value” “embodies notions of worth, utility, and importance generally.”¹⁶ In several cases, courts have held that the test of value is whether the recipient subjectively attaches value to the thing received.¹⁷ Given the broad definition of “anything of value,” a specific monetary value is not necessary in order for Respondent to respond to the allegations in Statement of Alleged Violation charging a violation of the Solicitation and Gift Ban.

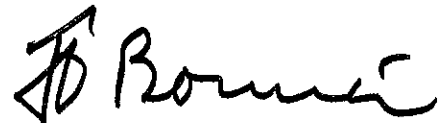
Respondent can, therefore, form a meaningful response to the Statement of Alleged Violation.

CONCLUSION

In light of the foregoing, the Investigative Subcommittee finds that Respondent’s Motion for Bill of Particulars does not state a sufficient basis requiring further particularization of the Statement of Alleged Violation. Although not required to do so, the investigative subcommittee has provided certain additional information by this response. Accordingly, the Respondent’s Motion for Bill of Particulars is denied.



Gene Green
Chair



Jo Bonner
Ranking Republican Member

¹² House Rule XXV, cl. 5(a)(2).

¹³ *United States v. Singleton*, 144 F.3d 1343, 1349 (10th Cir. 1998), *vacated on other grounds*, 165 F.3d 1297 (10th Cir. 1999) (collecting cases).

¹⁴ *Id.*

¹⁵ See *United States v. Girard*, 601 F.2d 69 (2d Cir. 1979) (internal citations omitted).

¹⁶ *Singleton*, 144 F.3d at 1348-49.

¹⁷ *Id.* at 1349 (collecting cases).

Copies to:

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Zuckerman Spaeder, LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036

UNITED STATES HOUSE OF REPRESENTATIVES
Committee on Standards of Official Conduct
Investigative Subcommittee

In the Matter of

Representative Charles B. Rangel

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RESPONDENT'S MOTION TO DISMISS

Respondent, through counsel, hereby moves pursuant to Standards Committee Rule 22(c) to dismiss the counts and/or allegations of the Statement of Alleged Violation issued June 17, 2010 ("SAV") identified below. As grounds for this motion, Respondent states as follows:

1. The SAV fails to state facts that constitute a violation of the Member's Handbook or 31 U.S.C. § 1301 or the Code of Official Conduct (Count VII).
2. The SAV fails to state facts that constitute a violation of the Code of Ethics for Government Service, clause 5 (Count II).
3. The SAV fails to state facts that constitute a violation of the House Gift Rule (Count III).
4. The SAV fails to state facts that constitute a violation of the Ethics in Government Act and House Rule XXVI with respect to 2008 (Count IX).
5. The SAV fails to state facts that constitute a violation of 18 U.S.C. § 1719 (Count V).
6. The SAV fails to state facts that constitute a violation of Clause 5 of the Code of Ethics for Government Service with respect to Lenox Terrace (Count X).

7. The Committee lacks jurisdiction to consider the allegations contained in the SAV.

A Memorandum of Points and Authorities in Support of this Motion and a proposed Order granting this Motion are enclosed.

Dated: June 28, 2010

Respectfully submitted,

/s/ Leslie B. Kiernan

Leslie B. Kiernan

Deborah J. Jeffrey

Jason M. Knott

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Attorneys for Respondent

UNITED STATES HOUSE OF REPRESENTATIVES
Committee on Standards of Official Conduct
Investigative Subcommittee

In the Matter of

Representative Charles B. Rangel

[PROPOSED] ORDER

Pursuant to Committee Rule 22(c)(2), the Investigative Subcommittee having considered Respondent's Motion to Dismiss and any further briefing and argument thereon, it is by the Investigative Subcommittee this ____ day of _____, 2010, ORDERED:

1. Count VII of the Statement of Alleged Violation issued June 17, 2010 (the "SAV") is hereby dismissed for failure to state facts that constitute a violation of the Member's Handbook or 31 U.S.C. § 1301 or the Code of Official Conduct.

2. Count II of the SAV is hereby dismissed for failure to state facts that constitute a violation of the Code of Ethics for Government Service, clause 5.

3. Count III of the SAV is hereby dismissed for failure to state facts that constitute a violation of the House Gift Rule.

4. With respect to Respondent's 2008 financial disclosure statement, Count IX of the SAV is hereby dismissed for failure to state facts that constitute a violation of the Ethics in Government Act and House Rule XXVI.

5. With respect to the allegation that Respondent violated 18 U.S.C. § 1719, Count V of the SAV is dismissed for failure to state facts that constitute a violation of that statute.

6. Count X of the SAV is hereby dismissed for failure to state facts that constitute a violation of the Code of Ethics for Government Service, clause 5.

7. With respect to the allegations that Respondent violated federal tax law and federal criminal law, the Committee lacks jurisdiction to consider and rule on those allegations, and they are hereby dismissed from the SAV.

Gene Green
Chair

Copies to:
Leslie B. Kiernan
Zuckerman Spaeder LLP
1800 M Street, N.W.
Washington, D.C. 20036

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT
INVESTIGATIVE SUBCOMMITTEE**

In the Matter of)
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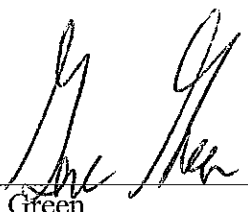
REPRESENTATIVE CHARLES B. RANGEL,)
)
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Respondent.)
_____)

ORDER

UPON CONSIDERATION OF Respondent's Motion to Dismiss, Memorandum of Points and Authorities, and the entire record herein, it is by the Investigative Subcommittee this 30th day of June, 2010, ORDERED

That the Motion is DENIED.



Gene Green
Chair



Jo Bonner
Ranking Republican Member

Copies to:

Leslie B. Kiernan, Esq.
Zuckerman Spaeder, LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT
INVESTIGATIVE SUBCOMMITTEE**

In the Matter of

REPRESENTATIVE CHARLES B. RANGEL,

Respondent.

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MEMORANDUM IN SUPPORT OF ORDER

On June 28, 2010, Respondent submitted to the Investigative Subcommittee a Motion to Dismiss with respect to the Statement of Alleged Violation adopted by the subcommittee on June 17, 2010 (Statement of Alleged Violation). By a separate Order, the Investigative Subcommittee denied Respondent's Motion to Dismiss on June 30, 2010. Through this Memorandum the Investigative Subcommittee sets forth the bases for its Order denying Respondent's motion.

STANDARD OF REVIEW

Standards Committee Rule 22(c)(2) provides that a Respondent may file a motion to dismiss, which may be based on only two possible grounds: (1) that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct, or other applicable law, rule, regulation, or standard of conduct; or (2) that the Standards Committee lacks jurisdiction to consider the allegations contained in the Statement of Alleged Violation.

The Standards Committee's jurisdiction over Members of Congress originates from Article I, Section 5, clause 2 the Constitution, which provides that "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."¹

Pursuant to House Rule XI, clause 3(a)(2), the Standards Committee:

May investigate, subject to paragraph (b), an alleged violation by a
Member . . . of the Code of Official Conduct or of a law, rule,

¹ U.S. Const. art. I, § 5, cl. 2.

regulation, or other standard of conduct applicable to the conduct of such Member . . . in the performance of the duties or the discharge of the responsibilities of such individual.²

The Standards Committee may exercise its investigative authority when:

1. information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;
2. information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee;
3. the Committee, on its own initiative, undertakes an investigation;
4. a Member, officer, or employee is convicted in a Federal, State, or local court of a felony;
5. the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or
6. a referral from the Board [of the Office of Congressional Ethics] is transmitted to the Committee.³

The Standards Committee “may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation.”⁴ The Standards Committee also “may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.”⁵

² Rules of the House of Representatives (House Rules), Rule XI, clause 3(a)(2).

³ Standards Committee Rule 14(a) (*citing* House Rule XI, clause 3(b)).

⁴ House Rule XI, clause 3(b)(3).

⁵ *Id.*; *see also* Standards Committee Rule 15(i) (“The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous

Upon formation of an investigative subcommittee in this matter, the Standards Committee issued the following statement:

The investigative subcommittee shall have jurisdiction to determine whether Representative Rangel violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to

- (1) Using official resources to transmit letters in 2005, 2006, and 2007 to potential donors to the Charles B. Rangel Center for Public Service at the City College of New York;
- (2) Apartment units leased by Representative Charles B. Rangel in the Lenox Terrace apartment complex located in Harlem, New York;
- (3) Representative Charles B. Rangel's financing of his ownership interests in a guest unit within the Punta Cana Yacht Club located in Punta Cana in the Dominican Republic and his compliance with financial disclosure requirements regarding that property; and
- (4) Representative Charles B. Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area.⁶

The scope of the investigative subcommittee's inquiry was expanded on two occasions. The inquiry was first expanded to include "contributions of money or pledges of contributions of money to the Charles B. Rangel Center for Public Service at City College of New York from any person or entity associated with Nabors Industries."⁷ The inquiry was further expanded to include "all Financial Disclosure Statements and all amendments filed in calendar year 2009 by or on behalf of Representative Charles B. Rangel pursuant to Title I of the Ethics in Government Act."⁸

Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.").

⁶ Statement of the Acting Chairman and Ranking Republican Member of the Committee on Standards of Official Conduct, September 24, 2008.

⁷ Statement of the Acting Chairman and Ranking Republican Member of the Committee on Standards of Official Conduct, December 9, 2008.

⁸ Statement of the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct, October 8, 2009.

ANALYSIS

For the reasons set forth below, the Investigative Subcommittee has found that the Statement of Alleged Violation adopted by the Investigative Subcommittee on June 17, 2010, sufficiently states facts that constitute violations of the Code of Official Conduct or other applicable laws, rules, regulations, or standards of conduct, and that the Standards Committee has jurisdiction to consider the allegations contained in each count of the Statement of Alleged Violation. Therefore, Respondent's Motion to Dismiss is denied.

A. The Standards Committee and the Investigative Subcommittee have jurisdiction over Respondent's violations of Federal tax law.

Respondent alleges that the Standards Committee lacks jurisdiction to consider the allegations contained in the Statement of Alleged Violation. In particular, Respondent contends that the Standards Committee lacks jurisdiction to allege that violations of Federal tax law implicate House ethics rules.

Respondent argues that errors on his personal taxes do not implicate discharge of his official responsibilities. Respondent appears to be operating under the erroneous belief that the only conduct subject to discipline is conduct directly relating to the discharge of his official responsibilities.

The Standards Committee may investigate any alleged violation of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of a Member in the performance or discharge of the responsibilities of such individual.⁹

The House and Standards Committee rules setting forth the standards for a Statement of Alleged Violation use the phrase "applicable to the performance of official duties or the discharge of official responsibilities by a Member" only to qualify the term "other standard of conduct" and not "the Code of Official Conduct or of a law, rule, regulation" language.

Thus, the Standards Committee's jurisdiction to investigate matters is not limited to acts related to the Member's official duties. This interpretation of the rules is supported by the precedent of the House and the Standards Committee. The House Practice Manual provides:

The conduct for which censure may be imposed is not limited to acts related to the Member's official duties. The power to censure

⁹ House Rule XI, clause 3(a)(2).

extends to any reprehensible conduct that brings the House into disrepute.¹⁰

The Practice Manual cites to a number of cases where censure or reprimand has been invoked against a member for conduct unrelated to the Member's official duties, including *Powell*, *Sikes*, *McFall*, *Roybal*, *Diggs*, *Wilson*, *Crane*, *Hansen*, *Murphy*, and *Frank*.¹¹ More recent cases involving conduct unrelated to official duties include *Rose*, *Kim*, and *Gingrich*.¹²

In light of the above, it is clear that a Member's failure to report income and pay Federal taxes is a matter within the investigative jurisdiction of the Standards Committee.¹³

Respondent points to the Investigative Subcommittee's jurisdictional statements in support of his argument that the Standards Committee lacks jurisdiction over violations of Federal tax law. To the extent that Respondent is arguing that the Investigative Subcommittee lacked jurisdiction to find violations of Federal tax laws, Respondent is incorrect.

¹⁰ House Practice Manual, Chapter 25, § 23.

¹¹ See Report to the Select Committee Pursuant to H.Res. 1, *In re Adam Clayton Powell*, H. Rep. 27, 90th Cong., 1st Sess. (February 23, 1967); Comm. on Standards of Official Conduct, *In the Matter of Representative Robert L. F. Sikes*, H. Rep. 94-1364, 94th Cong., 2d Sess. (July 23, 1976); Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. 95-1742, 95th Cong., 2d Sess. (October 6, 1978); Comm. on Standards of Official Conduct, *In the Matter of Representative Edward R. Roybal*, H. Rep. 95-1743, 95th Cong., 2d Sess. (October 6, 1978); Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson*, H. Rep. 95-1741, 95th Cong., 2d Sess. (October 6, 1978); Comm. on Standards of Official Conduct, *In the Matter of Representative Charles C. Diggs, Jr.*, H. Rep. 96-351, 96th Cong., 1st Sess. (July 19, 1979); Comm. on Standards of Official Conduct, *In the Matter of Representative Daniel B. Crane*, H. Rep. 98-296, 98th Cong., 1st Sess. (July 14, 1983); Comm. on Standards of Official Conduct, *In the Matter of Representative George V. Hansen*, H. Rep. 98-891, Vol. 1, 98th Cong., 2d Sess. (July 19, 1984); Comm. on Standards of Official Conduct, *In the Matter of Representative Austin J. Murphy*, H. Rep. 100-485, 100th Cong., 1st Sess. (December 16, 1987); Comm. on Standards of Official Conduct, *In the Matter of Representative Barney Frank*, H. Rep. 101-610, 101st Cong., 2d Sess. (July 20, 1990).

¹² See Comm. on Standards of Official Conduct, *In the Matter of Representative Charles G. Rose III*, H. Rep. 100-526, 100th Cong., 2d Sess. (Mar. 23, 1988); Comm. on Standards of Official Conduct, *In the Matter of Representative Jay Kim*, H. Rep. 105-797, 105th Cong., 2d Sess. (October 8, 1998); Comm. on Standards of Official Conduct, *In the Matter of Representative Newt Gingrich*, H. Rep. 105-1, 105th Cong., 1st Sess. (January 17, 1997); Comm. on Standards of Official Conduct, *In the Matter of Representative Earl F. Hilliard*, H. Rep. 107-130, 107th Cong., 1st Sess. (July 10, 2001). To hold that the Standards Committee may not investigate matters unrelated to a Member's official duties would create tension with other rules of the House and the Standards Committee. For example, Committee rules require that the Standards Committee conduct inquiries in certain criminal matters, including all felony convictions. H. Res. 451, adopted on June 5, 2007, and extended in the 111th Congress by H. Res. 5, Section 4(e); Committee Rule 18(e). Those rules do not limit the inquiries to crimes related to a Member's official duties. Respondent's interpretation of the rules would lead to the incongruous result that the Standards Committee would be required to investigate a Member's felony conviction, but could not discipline that Member if his felony were unrelated to his official duties.

¹³ It bears noting that, during the time Respondent failed to report the rental income on his tax returns, he was the Ranking Member and then Chairman of the Ways and Means Committee, which has jurisdiction over the nation's tax laws.

The Investigative Subcommittee was charged with investigating Respondent's financing of his ownership interest at Punta Cana and his related financial disclosures to determine whether Respondent violated "the Code of Official Conduct or *any* law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities" based on those issues. The jurisdictional statement did not specifically refer to tax issues, but it was not required to do so.

Facts discovered during the regular course of investigation may serve as the basis for allegations in a Statement of Alleged Violation.¹⁴ To find otherwise would require the Investigative Subcommittee to seek Standards Committee approval to expand jurisdiction to specify the precise legal basis for each violation the subcommittee comes to believe may have been violated.

Here, the Investigative Subcommittee determined during the course of its investigation that Respondent failed to report, over many years, his Punta Cana rental income on his Federal income tax returns. Respondent's motion does not deny that he failed to pay his personal income taxes on the Punta Cana rental income or that he was required to do so.

The Statement of Alleged Violation alleges facts that constitute a violation of the tax laws and Clause 2 of the Code of Ethics for Government Service.

B. The Statement of Alleged Violation states facts constituting a violation of the Purpose Law and the Member's Congressional Handbook.

Respondent alleges that the Statement of Alleged Violation fails to state facts that constitute a violation of the Member's Handbook, 31 U.S.C. § 1301 (the "Purpose Law"), or the Code of Official Conduct.

The proper use of government funds was a concern of the Founders, who provided in the Constitution that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."¹⁵ The Purpose Law provides that "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."¹⁶

The use of appropriated funds by Members and committees of the House is governed by chapter 3 of title 2 of the United States Code. Section 57(a)(1) of that title provides that:

¹⁴ Comm. on Standards of Official Conduct, *In the Matter of Representative Charles G. Rose III*, H. Rep. 100-526, 100th Cong., 2d Sess. at 4 (March 23, 1988).

¹⁵ U.S. Constitution, Article I, section 9 clause 7.

¹⁶ 31 U.S.C. §1301.

the Committee on House [Administration] of the House of Representatives may, by order of the Committee, fix and adjust the amounts, terms, and conditions of, and other matters relating to, allowances of the House of Representatives within the following categories:

- (1) For Members of the House of Representatives, the Member's Representational Allowance, including all aspects of official mail within the jurisdiction of the Committee under section 59e of this title.
- (2) For committees . . . allowances for official mail . . . stationary, and telephone and telegraph and other communications.

The Committee on House Administration sets forth the regulations governing the use of the Member's Representational Allowance ("MRA") in the Members' Congressional Handbook ("Members' Handbook"). The Members' Handbook provides that "[o]nly expenses the primary purpose of which are official and representational and which are incurred in accordance with the Handbook are reimbursable."¹⁷

The Standards Committee has previously exercised jurisdiction over Members for their misuse of appropriated funds. In one matter, a Member was reprimanded by the House related to the use of official House resources by his former law office.¹⁸ In another matter, violations of § 1301 and related regulations were charged by an investigative subcommittee in a Statement of Alleged Violation where a Member used official resources for personal benefit.¹⁹

The misappropriation of funds can rise to the level of a criminal violation. For example, one former Member pled guilty to violations of 18 U.S.C. § 1346, honest services fraud, related to his misuse of appropriated funds.²⁰ Another Member was prosecuted for embezzlement and conversion of public funds related to the misuse of appropriated funds.²¹

Respondent argues that, with respect to staff time, a violation occurs only where unofficial conduct interferes with the performance of official duties. Respondent points to the

¹⁷ Members' Handbook at 6.

¹⁸ Comm. on Standards of Official Conduct, *In the Matter of Representative Austin J. Murphy*, H. Rep. 100-485, 100th Cong., 1st Sess. (December 16, 1987).

¹⁹ Comm. on Standards of Official Conduct, *In the Matter of Representative Barbara-Rose Collins*, H. Rep. 104-876, 104th Cong., 2d Sess. (January 2, 1997) at 85-86.

²⁰ See *United States v. Rostenkowski*, 59 F.3d 1291 (D.C. Cir. 1995); see generally Criminal Docket for Case No. 1:94-cr-0226 (D.D.C.).

²¹ See *United States v. Kolter*, 71 F.3d 425 (D.C. Cir. 1995). Kolter pleaded guilty to one count of conspiracy to violate the laws of the United States and to defraud the United States. See generally Criminal Docket for Case No. 1:94-cr-00404 (D.D.C.).

Gingrich case in which Representative Gingrich was not charged with a violation of then-House Rule XLIII, clause 8, for having congressional staff perform certain book-related work that may or may have not been official in nature.²² Respondent fails to cite other precedent where violations were found for use of staff for nonofficial purposes, including the *Trafficant* matter.²³

Violations for the use of official resources include all resources paid for by the Member's Representational Allowance. In addition to staff, such resources also include use of the congressional frank, office equipment, such as copiers, computers, and paper, official House telephone and email accounts. Contrary to Respondent's statements in his submission, there is ample evidence that official resources were used. The Statement of Alleged Violation alleges that official House resources were utilized in connection with Respondent's solicitations for the Rangel Center.²⁴ The Statement of Alleged Violation states facts that constitute a violation of 31 U.S.C. § 1301, the Member's Congressional Handbook, and the Code of Official Conduct.

C. The Statement of Alleged Violation states facts that constitute a violation of clause 5 of the Code of Ethics for Government Service.

The Statement of Alleged Violation sets forth two counts for violations of clause 5 of the Code of Ethics for Government Service relating to Respondent's solicitations for the Rangel Center and Respondent's use of a residential rent-stabilized apartment for his campaign committees.

The House Rules and other standards governing Members' conduct prohibit a Member from using, or appearing to use, his official position for personal benefit.²⁵ Under the Code of Ethics for Government Service (Code of Ethics),²⁶ a federal official, including a Member, should:

Never discriminate unfairly by dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under

²² Comm. on Standards of Official Conduct, *Statement of the Committee on Standards of Official Conduct Regarding Complaints against Representative Newt Gingrich*, at 40 (Comm. Print March 8, 1990). The *Gingrich* case did not address the Purpose Law or the Member's Congressional Handbook.

²³ Comm. on Standards of Official Conduct, *In the Matter of Representative James A. Traficant, Jr.*, H. Rep. 107-594, 107th Cong., 2d Sess. (July 19, 2002). See also matters involving Representative Torricelli and Representative Zimmer at Comm. on Standards of Official Conduct, *Summary of Activities One Hundred Fourth Congress*, H. Rep. 104-886, 104th Cong., 2d Sess. (January 2, 1997).

²⁴ See Statement of Alleged Violation at ¶¶ 12, 15, 16, 22, 23, 28, 29, 32, 37, 39, 50, 51, 66, 82, 212, and 213.

²⁵ House Rule XXIII, clauses 2 and 3; Code of Ethics for Government Service, clause 5; see also *Sikes*, at 3; 2008 *House Ethics Manual*, at 187 ("One of the purposes of the rules and standards [of conduct relevant to use of a Member's office for personal benefit] is to preclude conflict of interest issues.").

²⁶ 72 Stat., Part 2, B12, H. Res. 175, 85th Cong. (adopted July 11, 1958).

circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.²⁷

Because the Code of Ethics measures a Member's conduct by "what might be construed by reasonable persons," a Member may violate this provision even if the Member would have taken the same official action without a potential personal benefit, if the Member's actions raise the appearance of impropriety.²⁸

When assessing whether a Member has taken official action for personal benefit, the Standards Committee will take into consideration the nature of the benefit,²⁹ the people or entities that could benefit from the official action,³⁰ and the Member's motive in taking the action.³¹ A Member may not take official action if the Member is motivated, or appears to be motivated, to take the action by the personal benefit that may accrue to the Member.³² When assessing a Member's motive in taking official action, the Standards Committee asks whether there is "direct evidence that the congressman had any such improper motive[.]"³³

The House has applied the prohibition on taking official action for personal benefit in situations where the potential personal benefit would accrue to an investment held by the Member.³⁴ For example, in the Standards Committee's report *In the Matter of a Complaint against Representative Robert L.F. Sikes*, the Standards Committee found that when Representative Sikes sought to purchase shares of a privately held bank "which he had been active in his official position in establishing" he failed to observe:

The standard of ethical conduct . . . as is expressed in principle in Section 5 of the code of Ethics for Government Service, and which prohibits any person in Government service from accepting for "himself . . . benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties[.]"³⁵

The Standards Committee further found that Representative Sikes failed to observe "[t]he standard of ethical conduct that should be observed by Members of the House, as is expressed in

²⁷ Code of Ethics for Government Service, clause 5.

²⁸ Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. 100-56, 100th Cong. 2d Sess. 9 (Feb. 18, 1988).

²⁹ See, e.g., Comm. on Standards of Official Conduct, *Investigation of Financial Transactions Participated in and Gifts Accepted by Representative Fernand J. St. Germain*, (hereinafter *St. Germain*) H. Rep. 100-46, 100th Cong., 1st Sess. 43 (1987).

³⁰ *Graves*, at 19; *Sikes*, at 28.

³¹ *St. Germain*, at 43.

³² *Id.*

³³ *Id.*

³⁴ 3 *Deschler's Precedents of the United States House of Representatives*, ch. 12 § 8.4, 1714 (1994).

³⁵ *Sikes*, at 3.

principle in the Code of Ethics for Government Service, and which prohibits conflicts of interests and the use of an official position for any personal benefit,” when he sponsored legislation to remove a reversionary interest and restrictions on land in which he had a personal financial interest.³⁶

In another matter, the Standards Committee found that a Member violated this provision when he accepted gifts from an individual, on whose behalf he had intervened with business and government officials.³⁷ The Standards Committee report stated that:

While the Committee does not argue, nor can it be determined, that Representative Biaggi would not have interceded on behalf of Coastal in the absence or because of Esposito’s gratuities to the congressman, it is nevertheless clear that at a minimum, an appearance is raised that such was the case. Accordingly, the Committee concluded that such improper appearance supports a determination that Representative Biaggi violated clause 5 of the Code of Ethics for Government Service.³⁸

With respect to the solicitation violation, Respondent argues that the “charitable contributions cannot as a matter of law be construed as an improper favor or benefit to Respondent.”³⁹ Respondent claims that in order for something to be a “favor or benefit” under clause 5, it must have some pecuniary benefit to the Member or his family. Respondent argues, citing *Gingrich*, that a benefit of only publicity does not constitute a gift or favor. The Investigative Subcommittee does not dispute that incidental publicity, such as that discussed in the *Gingrich* case cited by Respondent, does not constitute a favor or benefit.

However, the facts in the *Gingrich* case are not the facts of this case. Here, Respondent received something of value beyond mere incidental publicity.

Respondent’s discussion of whether he had a financial interest in an earmark benefitting the Rangel Center has no bearing on the allegations in the Statement of Alleged Violation. Respondent attempts to equate a “financial interest” for purposes of House Rule XXIII, clause 17, with a “favor or benefit” for purposes of the Code of Ethics for Government Service.

Even if the standards were identical, Respondent’s reliance on House action regarding the earmark would still be inappropriate. The Members of the House did not have the information regarding the Rangel Center that has been discovered by the Investigative Subcommittee. The

³⁶ *Id.* at 4.

³⁷ Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. 100-56, 100th Cong. 2d Sess. at 9 (Feb. 18, 1988).

³⁸ *Id.* at 9.

³⁹ Respondent’s Memorandum at 2.

Investigative Subcommittee has an obligation to investigate and charge any violations by a Member, regardless of prior actions by the House.⁴⁰

For example, the Investigative Subcommittee's inquiry in this matter found evidence that potential donors were essentially granting a favor to Respondent in considering donations and making those donations. Even if these donors were also motivated by a desire to fund the underlying objectives of the Rangel Center, the fact remains that Respondent asked them to donate, and the donors took that request into account.

The Investigative Subcommittee further found that the donations to establish the Rangel Center provided benefits to Respondent. The most tangible benefit to Respondent was the office. The evidence shows that Respondent knew an office was planned for him and he said nothing to correct any statements made by CCNY or dissuade CCNY from the notion of the "well-furnished office."⁴¹

The Statement of Alleged Violation alleges that Respondent received favors or benefits, including the promise of an office and donations that totaled in excess of \$8 million.⁴² The Statement of Alleged Violation states facts that support a violation of the clause 5 of the Code of Ethics for Government Service.

With respect to the Lenox Terrace issue, Respondent again alleges that the Statement of Alleged Violation fails to state facts that constitute a violation of clause 5. The Statement of Alleged Violation alleges that Respondent's continued acceptance of a residential, rent-stabilized apartment for nonresidential purposes was a favor or benefit to him.⁴³

Respondent argues that it was not a favor or benefit to Respondent, but rather a business decision made by Olnick. Whether Olnick did, in fact, make such a decision is not relevant.⁴⁴

Regardless of the landlord's knowledge or motivation, Respondent was not entitled to a residential, rent-stabilized apartment for use by his campaign committees. Olnick was not required to rent a rent-stabilized apartment to Respondent for non-residential purposes.

⁴⁰ There could be many reasons the House takes a particular action. Attempts to characterize a particular House action as a "free pass" for all conduct related to that action would be misplaced. Respondent also appears to argue that it is incumbent upon each Member of the House to investigate and determine for each and every earmark whether it implicates a "financial interest" to the sponsoring Member in violation of House Rule XXIII, clause 17.

⁴¹ Respondent argues at length regarding whether the archiving of papers can constitute a "favor or benefit." While Respondent's discussion contains errors in both its factual statements and analysis, the Investigative Subcommittee sees no need to correct those errors or otherwise respond to that discussion. The donations that were made as favors to Respondent, as well as the office are each sufficient, standing alone, to constitute a "favor or benefit."

⁴² See Statement of Alleged Violation at ¶¶ 6, 19, 56, 64, 76, 77, 81, 180, and 181.

⁴³ See Statement of Alleged Violation at ¶¶ 235-237.

⁴⁴ Respondent's assertion that it was, in fact, a business decision is not supported by the record, given the standard of review applicable to a motion to dismiss.

Respondent's continued access to that apartment for a non-conforming use was a favor or benefit to Respondent.

Respondent further argues that he did not perform any official acts on behalf of Olnick. Respondent's argument misconstrues clause 5 of the Code of Ethics for Government Service. Unlike *quid pro quo*, clause 5 does not require any official action. It merely speaks to creating the appearance of impropriety. The facts alleged in the Statement of Alleged Violation are sufficient to establish circumstances that reasonable persons might construe as influencing the performance of his governmental duties.

D. The Statement of Alleged Violation states facts that constitute a violation of the House Gift Rule.

Respondent alleges that the Statement of Alleged Violation fails to state facts that constitute a violation of the House Gift Rule.⁴⁵ Contrary to Respondent's assertion, there is no requirement in the House Rule, in the Solicitation and Gift Ban, or the precedent of this Committee that an item have a monetary value in order to constitute a gift. In addition, where a Member fails to comply with the Standards Committee's guidance on solicitations for organizations qualified under § 170(c) of the Internal Revenue Code by using official resources or the imprimatur of his office in making the solicitation, the exception to the Solicitation and Gift Ban⁴⁶ does not apply and any gift solicited by the Member to the charitable organization may be attributed as a gift to the Member, particularly where the Member has used official resources or the imprimatur of his office in making the solicitation, as was done here.

House rules and a federal statute generally prohibit Members from accepting gifts.⁴⁷ Under the House Gift Rule, a Member may not knowingly accept a gift, unless it falls within one of the exceptions set forth in the rule.⁴⁸ The Solicitation and Gift Ban prohibits the solicitation and acceptance of gifts by Members unless authorized by the Standards Committee.⁴⁹ The Standards Committee has sole and exclusive jurisdiction over the interpretation and enforcement of the House Gift Rule and the Solicitation and Gift Ban.⁵⁰

Except as permitted by the House Gift Rule, as interpreted and enforced by the Standards Committee:

⁴⁵ House Rule XXIII, clause 4.

⁴⁶ 5 U.S.C. § 7353.

⁴⁷ House Rule XXIII, cl. 4 (stating that a Member "may not accept gifts except as provided by clause 5 of rule XXV"); House Rule XXV, cl. 5 (House Gift Rule); 5 U.S.C. § 7353 (Solicitation and Gift Ban).

⁴⁸ House Rule XXV, cl. 5(a)(1)(A)(i).

⁴⁹ 5 U.S.C. § 7353.

⁵⁰ House Rule XXV, cl. 5(h); *see* 5 U.S.C. § 7353(b).

(a) ... no Member of Congress ... shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by, the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

A "Member ... may not knowingly accept a gift except as provided" in the House Gift Rule.⁵¹

The term "gift" is broadly defined, and includes "anything of value,"⁵² as well as a "gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."⁵³

The term "anything of value" has been interpreted synonymously with "thing of value."⁵⁴ As noted by the courts, "the pervasive use of [thing of value] in criminal statutes of both the states and the federal government has made it a term of art, covering intangible as well as tangible things."⁵⁵ The following are examples of "things of value": amusement, promise of sexual intercourse, promise to reinstate an employee, agreement not to run in a primary election, testimony of a witness, and content of a writing.⁵⁶ The term "value" "embodies notions of worth, utility, and importance generally."⁵⁷ In several cases, courts have held that the test of value is whether the recipient subjectively attaches value to the thing received.⁵⁸

There is no requirement in the House Rule, in the Solicitation and Gift Ban, or in the precedent of the Standards Committee that an item have a monetary value to constitute a gift. The term "anything of value" is not limited to things of "monetary, commercial, objective, actual or tangible value."⁵⁹ The use of the phrase "or other item having monetary value" in the House Gift Rule, therefore, does not restrict the definition of a "gift" to only items of monetary value.⁶⁰

⁵¹ House Rule XXV, cl. 5(a)(1)(A)(i).

⁵² 5 U.S.C. § 7353(a).

⁵³ House Rule XXV, cl. 5(a)(2).

⁵⁴ *United States v. Singleton*, 144 F.3d 1343, 1349 (10th Cir. 1998), *vacated on other grounds*, 165 F.3d 1297 (10th Cir. 1999) (collecting cases).

⁵⁵ *Id.*

⁵⁶ See *United States v. Girard*, 601 F.2d 69 (2d Cir. 1979) (internal citations omitted).

⁵⁷ *Singleton*, 144 F.3d at 1348-49.

⁵⁸ *Id.* at 1349 (collecting cases).

⁵⁹ *Id.*

⁶⁰ Notably, House Rule XXV, cl. 5(a)(2)(A), includes things for which it would be difficult to place a monetary value, including favors and hospitality.

Further, even gifts that do not create any financial conflict of interest are problematic. It is human nature that the recipient of a gift will be grateful for gifts, and that the donor may expect favorable treatment or consideration in return.⁶¹ Even where neither the donor nor the recipient has an intent to influence or be influenced, concerns may arise about the appearance of impropriety related to a gift or gifts. The House Bipartisan Task Force on Ethics (101st Congress) noted this concern:

Regardless of any actual corruption or undue influence upon a Member or employee of Congress, the receipt of gifts or favors from private interests may affect public confidence in the integrity of the individual and in the institution of the Congress. Legitimate concerns of favoritism or abuse of public position may be raised by disclosure of frequent or expensive gifts from representatives of special interests, or valuable gifts from anyone other than a relative or personal friend.⁶²

Gifts to Members have long been a matter of concern to Congress. A 1951 report from a Senate subcommittee highlighted some of the concerns:

When is it proper to offer [gifts to] public officials and what is it proper for them to receive? A cigar, a box of candy, a modest lunch . . .? Is any one of these improper? It is difficult to believe so. They are usually a courteous gesture, and expression of good will, or a simple convenience, symbolic rather than intrinsically significant. Normally they are not taken seriously by the giver nor do they mean very much to the receiver. At the point at which they do begin to mean something, however, do they not become improper? Even small gratuities can be significant if they are repeated and come to be expected. . . .

Expensive gifts, lavish or frequent entertainment, paying hotel or travel costs, valuable services, inside advice as to investments, discounts and allowances in purchasing are in an entirely different category. They are clearly improper. . . . The difficulty comes in drawing the line between the innocent or proper and that which is designing or improper. At the moment a doubt arises as to propriety, the line should be drawn.⁶³

⁶¹ See Paul H. Douglas, *Ethics in Government* 48-49 (1952).

⁶² Bipartisan Task Force Report.

⁶³ Special Subcomm. on the Establishment of a Comm'n on Ethics in Gov't, Senate Comm. on Labor and Public Welfare, *Ethical Standards in Government*, 82d Cong., 1st Sess. 23 (Comm. Print 1951).

Under House Rule XXIII, clause 2, a Member must “adhere to the spirit as well as the letter” of the House Rules.⁶⁴ House Rule XXIII, clause 2, was drafted to “provide the House the means to deal with infractions that rise to trouble it without burdening it with defining specific charges that would be difficult to state with precision.”⁶⁵ The practical effect of House Rule XXIII, clause 2, has been to provide a device for construing other provisions of the Code of Conduct and House Rules.⁶⁶ This rule has been interpreted to mean that a Member or employee may not do indirectly what the Member or employee would be barred from doing directly.⁶⁷ In other words, the House Rules should be read broadly, and a narrow technical reading of the House Rules should not overcome its “spirit” and the intent of the House in adopting the rules.⁶⁸

Members are prohibited, either directly or indirectly, from soliciting and accepting gifts, except as authorized by the Standards Committee. An indirect gift occurs where a “gift is given with the knowledge and acquiescence of the Member ... and the Member ... has reason to believe the gift was given because of the [Member’s] official position.”⁶⁹ Thus, a donation to a charitable organization, including a public college or university, may, under certain circumstances, be considered a gift attributable to a Member who solicited the donation.

As noted above, the Solicitation and Gift Ban prohibits Members from soliciting and / or accepting gifts unless authorized by the Standards Committee.⁷⁰ The Standards Committee, as the supervising ethics office under the Solicitation and Gift Ban statute, is authorized to provide for reasonable exceptions pursuant to the ban.⁷¹ The Standards Committee, acting pursuant to 5 U.S.C. § 7353(b), has provided for three basic “blanket exceptions,” two of which are not applicable here – campaign or political contributions and the Congressional Art Competition.⁷²

The third exception permits Members to solicit in their personal capacities, not using official resources or the imprimatur of their offices, on behalf of organizations qualified under § 170(c) of the Internal Revenue Code. However, such solicitations are subject to a number of

⁶⁴ House Rule XXIII, cl. 2.

⁶⁵ 114 *Cong. Rec.* 8778 (April 3, 1968); *see also* 114 *Cong. Rec.* 8799 (statement of Representative Teague, member of the House Comm. on Standards of Official Conduct, 90th Cong.).

⁶⁶ 2008 *House Ethics Manual*, at 17.

⁶⁷ House Select Comm. on Ethics, *Advisory Opinion 4*, H. Rep. No. 95-1837, 95th Cong., 2d Sess. 61-62 (1979).

⁶⁸ *Id.*

⁶⁹ House Rule XXV, cl. 5(a)(2)(B)(i); 5 U.S.C. § 7353(a); *see also* 5 CFR §§ 2635.203(e) (stating “[a] gift is solicited or accepted because of the employee’s official position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his Federal position) and 2635.203(f) (stating “[a] gift which is solicited or accepted indirectly includes a gift: ... (2) Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee”); OGE Advisory Letter 92x22 (July 31, 1992) (citing the proposed indirect gift rule and noting under precedent existing before promulgation of regulations implementing 5 U.S.C. § 7353 that “a contribution to a charity made at the behest or suggestion of a Federal employee would be considered a gift under existing precedent even though the employee did not personally receive the contribution”).

⁷⁰ 5 U.S.C. § 7353.

⁷¹ 5 U.S.C. § 7353(b). Under no circumstances may a Member accept a gift in exchange for being influenced in the performance of any official act. 5 U.S.C. § 7353(b)(2)(B).

⁷² *See* 1997 Solicitation Pink Sheet.

restrictions.⁷³ If a Member violates any one of these restrictions, his actions would not fall within the general exception and would run afoul of the solicitation ban.

The Standards Committee has stated that “the major restrictions on such solicitations are that no official resources may be used in making them, no official endorsement by the House of Representatives may be implied, and no direct personal benefit may result to the soliciting official.”⁷⁴ Further, solicitations are not permitted for organizations established or controlled by Members unless the organization’s principal activities are unrelated to the Member’s official duties.⁷⁵ The Standards Committee has also noted that, pursuant to a House rule, registered lobbyists may not be solicited, except as part of a solicitation directed to a broad category of persons.⁷⁶

A Member is generally allowed to solicit funds for a § 170(c) organization in his own name without using the public fisc, his position or his influence.⁷⁷ When those restrictions are not followed, the general exception to the solicitation ban is inapplicable. Therefore, if a Member uses official resources in the solicitation, the exception does not apply and the Member has violated the statute.⁷⁸ Similarly, if a Member uses congressional letterhead, the exception does not apply and the Member has violated the statute.⁷⁹ Likewise, if a Member solicits on the property of the House of Representatives, the exception does not apply and the Member has violated the statute.⁸⁰ In addition, if a Member may receive a direct benefit, the exception does not apply and the Member has violated the statute.⁸¹ Further, if a Member targets a federally-registered lobbyist, the exception does not apply and the Member has violated the statute.⁸²

Approval by the Standards Committee of an exception to the solicitation ban also serves as approval of an exception to the statute’s ban on the acceptance of any gift to the proposed beneficiary resulting from the solicitation that may be attributable to the soliciting Member.⁸³ Where a soliciting Member has complied fully with the Standards Committee’s guidance with respect to a permissible solicitation, no gifts to the proposed beneficiary of the solicitation will be attributed to the soliciting Member.

However, where a Member fails to comply with the Standards Committee’s guidance, the exception to the Solicitation and Gift ban may not apply and any gift solicited by the Member to

⁷³ 1997 Solicitation Pink Sheet; 1995 Solicitation Pink Sheet; 1990 Solicitation Pink Sheet.

⁷⁴ 1997 Solicitation Pink Sheet.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ 1997 Solicitation Pink Sheet; 1995 Solicitation Pink Sheet; 1990 Solicitation Pink Sheet.

⁷⁹ 1995 Solicitation Pink Sheet; 1990 Solicitation Pink Sheet; House Rule XXIII, cl. 11.

⁸⁰ The House Office Building Commission’s Rules and Regulations Governing the House Office Buildings, House Garages and the Capitol Power Plant (February 1999).

⁸¹ 1990 Solicitation Pink Sheet.

⁸² House Rule XXV, cl. 5(e)(i); 1997 Solicitation Pink Sheet.

⁸³ 5 U.S.C. § 7353(b)(1).

the charitable organization may be attributed as a gift to the Member, particularly where the Member has used official resources or the imprimatur of his office in making the solicitation.⁸⁴

As previously discussed, the contributions to the Rangel Center provided Respondent with favors and benefits, including funds for the establishment of the Rangel Center.⁸⁵ It is irrelevant for purposes of the gift rule whether those gifts had a monetary value.

In addition, Respondent's solicitations violated the Standards Committee's guidance on the solicitations for organizations qualified under § 170(c) of the Internal Revenue Code. His violations included, *inter alia*, the use of his Congressional letterhead and other official resources. Respondent knew that he had solicited donations for the Rangel Center and that he had used the imprimatur of his office in those solicitations. Respondent also knew that individuals and entities he solicited had donated to the Rangel Center and that the solicitations included information about items that would accrue to his benefit, including providing a well-appointed office for his use. Thus, Respondent received gifts indirectly from donors to the Rangel Center. Therefore, the Statement of Alleged Violation states facts that constitute a violation of the House Gift Rule and the Solicitation and Gift Ban.

E. The Statement of Alleged Violation states facts that constitute a violation of the Ethics in Government Act and House Rule XXVI.

Respondent alleges that the Statement of Alleged Violation fails to state facts that constitute a violation of the Ethics in Government Act and House Rule XXVI with respect to 2008.

Title I of the Ethics in Government Act (EIGA) sets forth the requirements for financial disclosure by government officials. The provisions of title I of the EIGA also constitute a Rule of the House.⁸⁶ Section 102 of the EIGA requires that each report "shall include a full and complete statement" with respect to several categories, including income, honoraria, income-producing assets, gifts, reimbursements for travel, interests in certain property, liabilities,

⁸⁴ House Rule XXV, cl. 5(a)(2)(B)(i); 5 U.S.C. § 7353(a); *see also* 5 CFR §§ 2635.203(e) (stating "[a] gift is solicited or accepted because of the employee's official position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his Federal position) and 2635.203(f) (stating "[a] gift which is solicited or accepted indirectly includes a gift: ... (2) Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee"); OGE Advisory Letter 92x22 (July 31, 1992) (citing the proposed indirect gift rule and noting under precedent existing before promulgation of regulations implementing 5 U.S.C. § 7353 that "a contribution to a charity made at the behest or suggestion of a Federal employee would be considered a gift under existing precedent even though the employee did not personally receive the contribution").

⁸⁵ This would include a "well-furnished office" and an archivist. *See, supra*, note 42. These items have a monetary value.

⁸⁶ House Rule XXVI, par. 2.

transactions, and reportable positions.⁸⁷ Among the positions required to be reported is a trustee of any nonprofit organization.⁸⁸

Respondent's submission makes statements suggesting that Standards Committee staff played a role in the decision not to amend his Financial Disclosure Statement for calendar year 2008.⁸⁹ At no point did Standards Committee staff advise Respondent not to file an amended Financial Disclosure Statement for calendar year 2008. Respondent was aware that the original Financial Disclosure statement contained an omission, and he chose not to amend that statement.⁹⁰

The Statement of Alleged Violation alleges that Respondent was a trustee of the Ann S. Kheel Charitable Trust during calendar year 2008, and that position was not reported on his Financial Disclosure Statement for calendar year 2008.⁹¹ The Statement of Alleged Violation states facts that constitute a violation of the EIGA and House Rule XXVI.

F. The Statement of Alleged Violation states facts that constitute a violation of 18 U.S.C. § 1719.

Respondent alleges that the Statement of Alleged Violation fails to state facts that constitute a violation of 18 U.S.C. § 1719. Respondent contends that the statute requires a showing that the franking privilege was used for the "specific purpose of avoiding payment of postage."⁹²

The criminal franking statute provides:

Whoever makes use of any official envelope, label, or indorsement [sic] authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title.⁹³

⁸⁷ EIGA at § 102.

⁸⁸ EIGA at § 102(a)(6)(A).

⁸⁹ Respondent also makes the erroneous statement that the omission was brought to the attention of Standards Committee staff. In fact, Standards Committee staff notified Respondent's counsel of the omission, to which Respondent's counsel replied that an amendment would be filed. See CSOC.CBR.00029388 (attached).

⁹⁰ To the extent that Respondent's counsel may have later informed Standards Committee counsel of a change in the expressed intent for amending while proceedings were pending, there was no ratification of that decision by Standards Committee counsel nor the Investigative Subcommittee.

⁹¹ See Statement of Alleged Violation at ¶¶ 142-143.

⁹² Respondent's Memo at 9.

⁹³ 18 U.S.C. § 1719.

Determining the mental state (“*mens rea*”), if any, required for a federal crime requires statutory construction and an inference of the intent of Congress.⁹⁴ Section 1719 does not explicitly identify the level of *mens rea*, if any, that is necessary to find a violation of the statute.

Where a statute is silent on *mens rea*, it does not necessarily mean that Congress intended to dispense with such a requirement.⁹⁵ *Mens rea* is required under common law, and that principle is generally followed even for statutory crimes that are silent on the issue.⁹⁶ The Supreme Court has noted that offenses that require no *mens rea* are generally disfavored.⁹⁷ The Court has suggested that some indication of congressional intent is required to dispense with *mens rea* as an element of a crime.⁹⁸ But the Court has also pointed to cases where no *mens rea* was required where the statute was silent and the punishment is relatively small:

In determining whether a criminal statute dispenses with *mens rea*, “the nature and extent of the penalty attached to the offence may be reasonably considered. There is nothing that need shock any mind in the payment of a small pecuniary penalty by a person who has unwittingly done something detrimental to the public interest.”⁹⁹

Section 1719 requires only the payment of a fine. A violation of § 1719 is classified as an “infraction” under the federal criminal code, with a maximum fine of \$5,000.¹⁰⁰ That level of punishment falls well within the parameters courts have established as “relatively small” punishment.¹⁰¹ It is reasonable to conclude that the statute contains no *mens rea* requirement.

Even assuming some level of intent is required, where a presumption of intent is applied to a statute it is usually “general intent” rather than “specific intent.”¹⁰² General intent requires only that the person have knowledge of the act (“*actus reus*”). For purposes of § 1719, applying a general intent standard would mean that the statute is violated when the person knew the frank was being used on a private letter. There is no requirement that the person intend to avoid the payment of postage, contrary to the position taken in Respondent’s submission. Further, under

⁹⁴ *United States v. Balint*, 258 U.S. 250, 253 (1922).

⁹⁵ *Staples v. United States*, 511 U.S. 600, 605 (1994).

⁹⁶ *Id.*

⁹⁷ *Id.* at 606.

⁹⁸ *Id.* at 606.

⁹⁹ *Staples v. United States*, 511 U.S. 600, 617 n. 13 (1994)(quoting *Queen v. Tolson*, 23 Q.B. at 177 (Wills, J.)). See also *Staples*, 511 U.S. at 618 n. 15 (citing *Holdridge v. United States*, 282 F.2d 302, 310 (8th Cir. 1960)).

¹⁰⁰ 18 U.S.C. § 3571.

¹⁰¹ See, e.g., *United States v. Unser*, 165 F.3d 755, 763-64 (10th Cir. 1999) (maximum penalty of \$5,000 fine, or imprisonment for not more than six months, or both fell within “relatively small” standard); *United States v. Ayo-Gonzalez*, 536 F.2d 652, 661 (5th Cir. 1976) (maximum penalty of \$100,000 fine, or imprisonment for not more than one year, or both not so great as to indicate Congress must have intended some *mens rea* requirement).

¹⁰² See *Carter v. United States*, 530 U.S. 255 (2000).

the precedent of the Standards Committee, the Investigative Subcommittee is not required to adhere strictly to general criminal law standards that require proof of the requisite intent to establish a violation to appropriately execute its responsibilities in the non-criminal disciplinary context.¹⁰³ “Members are expected to adhere to standards of conduct far more demanding than the bare minimum standards established by our criminal laws.”¹⁰⁴

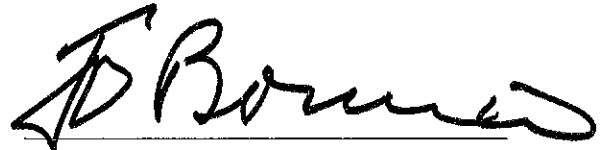
The Statement of Alleged Violation alleges that Respondent used his frank on materials that were not official business.¹⁰⁵ The Statement of Alleged Violation states facts that constitute a violation of 18 U.S.C. § 1719.

CONCLUSION

In light of the foregoing, the Investigative Subcommittee finds that Respondent’s Motion to Dismiss does not state adequate grounds to support dismissal of any counts in the Statement of Alleged Violation. Accordingly, the Respondent’s Motion to Dismiss is denied.



Gene Green
Chair



Jo Bonner
Ranking Republican Member

Copies to:

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Washington, D.C. 20036

¹⁰³ See Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures Korean Influence Investigation*, pursuant to H. Res. 252, 95th Cong., 1st Sess. (June 1977) at 35; Comm. on Standards of Official Conduct, *In the Matter of Representative Fortney “Pete” Stark*, H. Rep. 111-409, 111th Cong., 2d Sess. (January 29, 2010) at 10.

¹⁰⁴ *Id.*

¹⁰⁵ See Statement of Alleged Violation at ¶¶ 29, 201.

Morris, Deborah

From: Smith, Tonia
Sent: Monday, March 08, 2010 4:57 PM
To: Morris, Deborah
Cc: Kim, Morgan
Subject: FW: follow-up

From: Kiernan, Leslie Berger [REDACTED]
Sent: Thursday, September 10, 2009 11:25 AM
To: Smith, Tonia
Cc: Chisam, Blake
Subject: RE: follow-up

Hello Tonia --

Congressman Rangel has paid all taxes due on the two Glassboro lots. As I understand it the amount due was a total of approximately \$160.

Congressman Rangel did serve as a trustee for the Ann S. Kheel Charitable Trust in 2008. This position was inadvertently left off the 2008 personal financial disclosure form. An amendment will be prepared and filed.

Regards,

Leslie Kiernan

From: Smith, Tonia [REDACTED]
Sent: Tuesday, September 08, 2009 4:52 PM
To: Kiernan, Leslie Berger
Subject: follow-up

Leslie:

I hope all is well. I am just touching base with you to find out if you have any additional information regarding the following:

1. Confirmation that Rep. Rangel paid the taxes on the two New Jersey lots.
2. Whether Rep. Rangel is a trustee on the Ann S. Kheel Charitable Trust. If yes, why wasn't it reported on his Financial Disclosure Statements?

Please contact me if you have any questions and/or concerns.

Thanks,

Tonia Smith, Counsel
Committee on Standards of
Official Conduct
Suite HT-2, The Capitol

HOUSE OF REPRESENTATIVES

111TH CONGRESS

2d Session

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

INVESTIGATIVE SUBCOMMITTEE REPORT

IN THE MATTER OF REPRESENTATIVE CHARLES B. RANGEL
REGARDING MATTERS WITHIN ITS JURISDICTION ON ISSUES
NOT REFERENCED IN STATEMENT OF ALLEGED VIOLATION

JULY 21, 2010

The Committee on Standards of Official Conduct (Standards Committee) established an investigative subcommittee on September 24, 2008, to conduct an inquiry regarding Representative Charles B. Rangel. Among the items included in the investigative subcommittee's inquiry was Representative Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area.

Pursuant to Standards Committee Rule 19(g), where an investigative subcommittee does not adopt a Statement of Alleged Violation, the subcommittee is required to transmit to the Standards Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

The Investigative Subcommittee examined Representative Rangel's use of House parking facilities since January 2003.¹ The Investigative Subcommittee did not adopt any count in a Statement of Alleged Violation regarding Representative Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area.

I. Background

A. Committee on House Administration Parking Policies

The Committee on House Administration (House Administration) has jurisdiction over the parking facilities of the House of Representatives.² At the beginning of each Congress, staff members with parking receive a "permit" which is affixed to the registered vehicle.³ Each Member receives two "Member plates" which can be placed in the windshield of any car they are driving or being driven in.⁴

House Administration issues parking policies that govern parking facilities. During the relevant period, two parking policies were in effect – a March 1999 policy and a May 2005 policy (collectively, the "Parking Policies").⁵

The Parking Policies prohibited individuals from storing vehicles in House parking facilities. The March 1999 policy stated:

¹ See Committee Rule 18(d) generally limiting inquiries to alleged violations that occurred within the three previous Congresses.

² House Rule X, clause 1(j)(13).

³ Transcript of Investigative Subcommittee Interview of Roderick J. Myers, Director of the House Office of Parking and Garages Security (hereinafter Myers Tr.) at 8.

⁴ Myers Tr. at 9.

⁵ A new policy went into effect on January 3, 2009. See Exhibit 6 (CSOC.CBR.00027038-42).

Vehicles may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. “Stored” is defined as a vehicle continuously parked in an unreserved space for more than forty-five consecutive calendar days. Stored vehicles will be considered to be parked in violation of the applicable regulations stated herein.⁶

The May 2005 policy stated:

Vehicles, including motorcycles and bicycles, may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. “Stored” is defined as being continuously parked in an unreserved space for more than forty-five consecutive calendar days or a vehicle that does not display both a current parking permit and valid license plates.⁷

The Parking Policies permitted individuals with reserved parking spots to park in those spots indefinitely.⁸ Members were permitted to have up to two reserved spots.⁹ Unlike unreserved parking, reserved spots result in income being imputed, for tax purposes, to the holder of the reserved spot. The March 1999 policy stated:

A person who reserves an indoor space incurs additional taxable income as a working condition fringe benefit. Under the tax code and IRS regulations, Members and their employees have imputed taxable income to the extent that the fair market value of Government-provided parking exceeds \$175.00/month. The fair market value of an indoor space at the House of Representatives is \$290.00/month and therefore the imputed taxable income is \$115.00/month. These amounts are subject to change.¹⁰

⁶ Exhibit 1 (CSOC.CBR.00027026-29).

⁷ Exhibit 2 (CSOC.CBR.00027034-37). Myers testified that it was not a violation of the parking policy for a Member to have expired license plates, and, even if it were a violation, no enforcement action would have been taken against a Member. Myers Tr. at 15-16, 23.

⁸ Exhibit 1 at CSOC.CBR.00027028; Exhibit 2 at CSOC.CBR.27036.

⁹ Myers Tr. at 18-19.

¹⁰ Exhibit 1 at CSOC.CBR.00027029. The May 2005 policy contains similar language, with the amount of imputed taxable income set at \$100.00/month. Exhibit 2 at CSOC.CBR.00027037. Pursuant to the tax laws, certain fringe benefits are considered taxable income, including some types of employer-provided parking. 26 U.S.C. § 132(a)(5). Where the value of the parking exceeds an amount set by the tax laws and regulations, that additional amount is considered imputed income, which is subject to tax. 26 U.S.C. § 132(f)(2)(B) (parking valued at less than \$175/month is excluded from gross income). Because the value of a reserved parking space at House parking

When a violation of the parking policy occurred, the Parking Policies included procedures for notifying the individual.¹¹ These notifications included providing several forms of notice before taking any action.¹² These notifications, however, were only applied to staff, and not Members.¹³

A new parking policy was issued at the beginning of the 111th Congress. With respect to storage of vehicles, the policy provides:

Staff vehicles, including motorcycles and bicycles, may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. “Stored” is defined as being continuously parked in an unreserved space for more than fourteen (14) consecutive calendar days. A vehicle not displaying both a current parking permit and valid license plates will be considered a “stored” vehicle.¹⁴

The current parking policy, therefore, does not appear to prohibit Members from storing vehicles in unreserved parking.

B. Representative Rangel’s Use of House Parking Garage

During the 108th Congress, Representative Rangel had two vehicles registered with House Parking, a PT Cruiser and a Mercedes.¹⁵ In the 109th and 110th Congresses, Representative Rangel had only one vehicle registered with House Parking, the PT Cruiser.¹⁶ Representative Rangel had reserved parking, which he used for the PT Cruiser.¹⁷

Representative Rangel also kept his Mercedes parked in a House garage for a number of years. Although the record does not clearly indicate how long the car was in the House garage or whether it was ever moved, it is likely that the car was stored for more than 45 consecutive days.

facilities exceeds the amount set by the tax laws, that additional value results in imputed income to individuals with reserved parking.

¹¹ Exhibit 1 at CSOC.CBR.00027029; Exhibit 2 at CSOC.CBR.00027037.

¹² Exhibit 1 at CSOC.CBR.00027029; Exhibit 2 at CSOC.CBR.00027037.

¹³ Myers Tr. at 13.

¹⁴ Exhibit 6 at CSOC.CBR.00027040 (emphasis added).

¹⁵ Exhibit 3 (CSOC.CBR.00029395).

¹⁶ Exhibit 4 (CSOC.CBR.00029396); Exhibit 5 (CSOC.CBR.00028397). Representative Rangel, like all Members, was entitled to park a second car in the House parking facilities, using his second Member plate. *See* Myers Tr. at 17-18.

¹⁷ Exhibit 4 (CSOC.CBR.00029396); Exhibit 5 (CSOC.CBR.00028397); Transcript of Investigative Subcommittee Interview of Representative Charles B. Rangel (hereinafter Rangel Tr.) at 223-24; Myers Tr. at 17.

Myers testified he had seen the car in the garage at least since 2003.¹⁸ Myers further testified that, although he had been contacted once to jump-start the car, he had never seen it driven out of the garage.¹⁹ Myers said that, although it “appeared that [the car] hadn’t moved,” he could not “prove” it because the parking service is only open for 16 hours and the car may have been moved between 11 p.m. and 7 a.m. when no one from his office was present.²⁰

When asked if the Mercedes ever stayed in the parking garage more than forty-five days at a time, Representative Rangel responded, “I don’t [sic] know where it was until someone told me that it was in the garage. I didn’t see it. Well, at one time I knew it was near my car. And then another time some Member told me they saw the car.”²¹ Similarly, when asked if he knew how long the car stayed in the garage, Representative Rangel stated, “I don’t know. I was reminded it was in the garage when I read it in the *New York Post*.”²² Similarly, Representative Rangel said “I don’t really remember” when asked when he had last driven the car, continuing, “No one told me that – the car was there. I read it in the *Post*. I didn’t know it was there. But no one told me that the car shouldn’t be there. I had no notice and whatnot.”²³

II. Analysis

The applicable written Parking Policies prohibited the storage of vehicles in unreserved parking spots. The investigative subcommittee’s inquiry found, however, that the written policy regarding storage was not enforced against Members. Under the current parking policy, Members are not prohibited from storing vehicles in unreserved parking spots.

While Representative Rangel appears to have stored his Mercedes for more than 45 days in violation of the written Parking Policies, the actual practice of the Parking Office was not to take action against parking violations by a Member. Because of that practice, the Parking Office did not provide any type of notice to Representative Rangel, as it would have to a staff member who was in violation of the Parking Policies.²⁴

In light of these circumstances, the investigative subcommittee determined that Representative Rangel’s conduct with respect to compliance with the Parking Policies did not rise to the level warranting charging it as a count in a Statement of Alleged Violation.

¹⁸ Myers Tr. at 25.

¹⁹ *Id.* at 26, 29.

²⁰ *Id.* at 27.

²¹ Rangel Tr. at 224.

²² *Id.* at 225.

²³ *Id.*

²⁴ *See, e.g.*, Myers Tr. at 15.

III. Recommendations

The investigative subcommittee is concerned about the lack of enforcement of the parking policies established by House Administration. While it is within the purview of House Administration to determine what parking policies it deems appropriate, the policies adopted should be enforced. Further, to the extent that the value of storage of a vehicle by Members exceeds the fringe benefit limitation set by the tax laws and regulations, resulting in imputed income to the Members who are storing their vehicles in unreserved parking, House Administration should take appropriate steps to ensure that such income is attributed to those Members.

The subcommittee recommends the following:

1. The Standards Committee take no further action against Representative Charles B. Rangel with respect to his compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area; and
2. The Standards Committee consider making a recommendation to House Administration that House Administration examine its rules regarding parking and the enforcement of those rules.

Committee on House Administration Parking Policy

March 10, 1999

*IN EFFECT
until 5/05*

Parking Policy Overview

1. Parking in the United States House of Representatives garages, lots, and designated parking areas is for Members, staff, and authorized personnel in support of the House of Representatives. Parking in these areas shall be on a "permit only" basis.
2. All vehicles parked in House permit-only areas must display valid license plates and a parking permit from the inside windshield or on the dashboard. The parking permit must be clearly visible upon entry and remain visible while parked on House premises. In addition to a permit, all staff must display a valid Congressional ID (House ID, Senate ID for US Capitol Police, or Senate press ID) upon entering garages and lots.
3. The House will not be liable for any damage or theft caused to any motor vehicle, or contents thereof, while parked in a House parking garage or on a House parking lot, whether or not the lot or garage is attended.
4. A public parking lot is located at Washington Avenue and D Street, SW. This lot is available for visitor and tourist parking on Monday through Friday from 7:00 a.m. to 11:00 p.m. and on Saturdays from 8:00 a.m. to 5:00 p.m.
5. On weekends and holidays when the House is not in session, outside parking lots are available to the public on a first-come, first-served basis.

Permits

1. Parking permits must be obtained through the office of a House employing authority and are available only to current House Members and staff holding a valid Congressional ID (House ID, Senate ID for US Capitol Police, or Senate press ID). These shall be for the use of the permit holders authorized by the employing authority and are non-transferable among employing authorities.
2. Members and staff receiving a mass transit benefit are not eligible for parking permits.
3. Spouses of Members may park in any garage or lot, on a space available basis and will be issued temporary permits if they are not using the Member plate. In addition, spouses will be required to present a Spouse ID.
4. An employing office may reassign permits by submitting a letter, listing new users and vehicles, to the Director of House Garages and Parking Security. Upon termination of employment, staff must return their parking permit to their employing office. Employing

offices that fail to collect permits from departing staff will not receive replacement permits without authorization from the Committee on House Administration.

5. A police report and affidavit must be immediately filed with the Office of House Garages and Parking Security for any lost or stolen permit.
6. Temporary permits may be issued at the request of an office, on a space-available basis. Offices should submit requests on the office letterhead and provide the user's name and vehicle information (make, model, color, and license plate information). The maximum duration of temporary permits is two weeks.
7. Authorized permit holders who temporarily need to use an alternate vehicle should contact the Office of the House Garages and Parking Security for a temporary permit for that vehicle.

Multiple Vehicles/Multiple Users

1. Members and staff may register more than one vehicle to a single parking permit. In addition, multiple persons may be assigned to a single parking permit.
2. Staff with multiple vehicles should transfer their parking permit, as needed, to the vehicle to be driven and parked.
3. Requests for transferable permits to be used by more than one person must list all users and their vehicle information (make, model, color, and license plate information).

Unreserved Parking

1. Members of the House may choose their unreserved parking spaces from any available spaces in the various garages/lots.
2. Unreserved staff parking is available on a first-come, first-served basis in the designated parking areas assigned to the employing office.
3. Vehicles may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. "Stored" is defined as a vehicle continuously parked in an unreserved space for more than forty-five consecutive calendar days. Stored vehicles will be considered to be parked in violation of the applicable regulations stated herein.

Reserved Parking

1. Members of the House may choose their reserved parking spaces from any unassigned spaces in the various garages/lots.

2. Staff must choose their reserved space from the designated parking areas indicated on their permit.
3. A person who reserves an indoor space incurs additional taxable income as a working condition fringe benefit. Under the tax code and IRS regulations, Members and their employees have imputed taxable income to the extent that the fair market value of Government-provided parking exceeds \$175.00/month. As of January 1, 1999, the fair market value of an indoor space at the House of Representatives is \$290.00/month and therefore the imputed taxable income is \$115.00/month. These amounts are subject to change.
4. Individuals with reserved parking will be permitted to park their vehicles in their designated spaces for an indefinite period of time.

Member Parking Plates

Member parking plates are for the use of Member and spouse, as well as for immediate transportation of the Member by staff. Former Members will be permitted to park using either temporary permits or Member parking plates from previous Congresses, but must display former Member ID.

Carpool Parking

House employees interested in carpool parking should contact the Office of House Garages and Parking Security. Carpools must have a minimum of three employees from House employing offices. Each carpool will be issued a parking permit on a first-come, first-served basis, according to space available.

Evening and Night Parking

Off-hour parking for swing shift employees, i.e. 2:00 p.m. to 7:30 a.m., will be allowed in House lots and garages based on space availability. Evening parking permits must be obtained through a House employing authority. Offices interested in evening parking should contact the Office of House Garages and Parking Security.

Americans with Disabilities Act (ADA)

Staff authorized to park who require accessible parking based on ADA considerations will be accommodated on an as-needed basis in spaces clearly marked for handicapped use. Such permits will come from the pool of permits assigned to the office. Staff will be required to display the State-assigned handicap designation.

Group and Event Parking

Parking for morning and evening functions on the House side of the Capitol Hill complex will be permitted before 8:30 a.m. and after 5:30 p.m. for groups requesting such parking accommodations through a House Member. The request should be made, in writing, on the office letterhead of the Member, identifying the group, the date and time, the location of the function, and the approximate number of vehicles to be parked. Requests should be mailed or faxed to the Director of House Garages and Parking Security (fax no. x61950). Groups will be accommodated on an outside House lot (other than the East Plaza) located as conveniently as possible to the function, and based upon the space available.

Violations:

Violations include:

- Failure to display proper identification (license plates and parking permit or Member plate) while in a garage, lot, or designated on-street parking area
- Failure to park in the assigned space, garage, lot, or parking area
- Failure to park within marked spaces
- Improper use of a Member plate
- Unauthorized parking in reserved spaces
- Storing of a vehicle in any House garage, lot, or designated parking area

Permitted Vehicles in Garages/Lots/Street Parking:

First Occurrence - Placement of a written notice on the vehicle that further violations will result in ticketing and towing of the vehicle at the owner's expense.

Second Occurrence within sixty (60) days - Vehicle is ticketed. Form letter mailed to the employing office providing notice of previous violations and advising that the next occurrence will result in removal of the vehicle at the owner's expense. The House Garages and Parking Security office will follow-up with phone call to both the permit holder and employing office manager.

Third Occurrence within same sixty (60) days - Notification to US Capitol Police and second telephone notification to both the permit holder and employing office manager. Vehicle will be cited for the relevant parking violation and removed at the owner's expense.

Except in cases of vehicles that pose a security risk or create a hazard, the time between first notification and towing will be no less than three weeks.

Non-Permitted Vehicles in Garages/Lots/Street Parking:

First Occurrence - Any unattended vehicle found inside a garage without a permit that cannot be identified by either the House Garage and Parking Security registry or the US Capitol Police and whose driver cannot be quickly located will be immediately ticketed and towed.

Committee on House Administration

Parking Policy

Revised May 2005

Parking Policy Overview

1. Parking in the United States House of Representatives garages, lots, and designated parking areas is for Members, staff, and authorized personnel in support of the House of Representatives. Parking in these areas shall be on a "permit only" basis.
2. All vehicles parked in House permit-only areas must display both valid license plates and a current parking permit. Current permits must be displayed on the front fork of motorcycles and on the seat support of bicycles. The parking permit must be clearly visible upon entry and remain visible while parked on House premises. In addition to a permit, all staff must display a valid Congressional ID upon entering garages and lots.
3. The House will not be liable for any damage or theft caused to any motor vehicle, or contents thereof, while parked in a House parking garage or on a House parking lot, whether or not the garage or lot is attended.

Permits

1. Parking permits must be authorized through the office of a House employing authority and are available only to current House Members and staff holding a valid Congressional ID. Permits shall be for the use of the permit holders as authorized by their employing authority only and are non-transferable among employing authorities.
2. Members and staff receiving a mass transit benefit are not eligible for parking permits. (This does not apply to bicycles. Members and staff who utilize mass transit benefits can obtain a bicycle permit for the outside bicycle racks).
3. Spouses of Members may park in any garage or lot, on a space available basis and will be issued temporary permits if they are not using the Member plate. In addition, spouses will be required to present a Spouse ID.
4. The Director of House Garages and Parking Security will reassign permits upon receipt of written notification on office letterhead and signed by employing authority of the new authorized users and vehicles. Upon termination of employment, staff must have their permits removed.
5. A police report and affidavit must be immediately filed with the Office of House Garages and Parking Security for any lost or stolen permit. If a permit is stolen, the permit holder must report the theft immediately to the U.S. Capitol Police and immediately thereafter file a copy of the police report and a U.S. House of Representatives (Stolen Parking Permit) Affidavit with the Office of House Garages and Parking Security (extension 5-6749).
6. Temporary permits may be issued at the request of an employing authority on a space available basis. Requests on the office letterhead signed by the employing authority and provide the user's name and vehicle information (make, model, color, and license plate information). The maximum duration of temporary permits is 14 days. An individual may not be issued temporary permits

which exceed 14 days in the aggregate in a six month period, unless otherwise authorized by the Committee on House Administration.

7. Authorized permit holders who temporarily need to use an alternate vehicle should contact the Office of House Garages and Parking Security for a temporary permit for that vehicle.
8. Temporary permits will be issued for outside parking as available. Any request for specific areas will be considered on a case-by-case basis.

Multiple Vehicles

1. Members and staff may register more than one vehicle to a single parking permit.
2. Staff with multiple vehicles should register their additional vehicle(s) with the Office of House Garages and Parking Security. Permits will be applied to each registered vehicle by the Office of House Garages and Parking Security (G2-28 Rayburn).
3. Staff with multiple vehicles may have only one (1) vehicle parked in House permit-only areas at any one time.
4. Staff registering more than three (3) vehicles must show vehicle registrations for all vehicles as proof of ownership.

Unreserved Parking

1. Members of the House may choose their unreserved parking space from any available space in the various garages/lots/streets.
2. Unreserved staff parking is available on a first-come, first-served basis in the designated parking areas assigned to the employing office.
3. Vehicles, including motorcycles and bicycles, may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. "Stored" is defined as being continuously parked in an unreserved space for more than forty-five consecutive calendar days or a vehicle that does not display both a current parking permit and valid license plates.

Reserved Parking

1. Members of the House may choose their reserved parking spaces from any unassigned space in the various garages.
2. Staff must choose their reserved space from the designated parking areas indicated on their permit.
3. Each person who reserves or shares a reserved indoor space incurs additional taxable income as a working condition fringe benefit. Under the tax code and IRS regulations, Members and their employees have imputed taxable income to the extent that the fair market value of Government-provided parking exceeds \$190.00/month. The fair market value of an indoor space at the House

of Representatives is \$290.00/month and therefore, as of January 3, 2003, the imputed taxable income is \$100.00/month. These amounts are subject to change. (Contact Human Resources for current rates at x5-2450)

4. Individuals with reserved parking will be permitted to park their vehicles in their designated spaces for an indefinite period of time with valid license plates.

Member Parking Plates

Member parking plates are for the use of Member and spouse, as well as for immediate transportation of the Member by staff. Former Members will be permitted to park using either temporary permits or Member parking plates from previous Congresses, but must also present a former Member ID.

Carpool Parking

House employees interested in carpool parking should contact the Office of House Garages and Parking Security (extension 5-6749). Carpools must have a minimum of two employees from House employing offices. Each carpool will be issued a parking permit on a first-come, first-served basis, according to space available.

Evening and Night Parking

Off-hour parking for swing shift employees, i.e. 2:00 p.m. to 7:30 a.m., will be allowed in House garages and lots based on space availability. Evening parking permits must be authorized through a House employing authority. Offices interested in evening parking should contact the Office of House garages and Parking Security (extension 5-6749).

Americans with Disabilities Act

Staff authorized a parking permit by their employing authority who require accessible parking based on ADA considerations will be accommodated on an as-needed basis in spaces clearly marked for handicapped use. Such permits will come from the pool of permits assigned to the office. Staff will be required to display the State-assigned handicap designation.

Group and Event Parking

Parking for morning and evening functions on the House side of the Capitol Hill complex will be permitted before 8:30 a.m. and after 5:30 p.m. on designated lots for groups requesting such parking accommodations through a House Member. The request should be made, in writing, on the office letterhead and signed by the Member, identifying the group, the date and time, the location of the function, and the appropriate number of vehicles to be parked. Requests should be mailed or faxed to the Director of House Garages and Parking Security (G2-28 Rayburn, fax 6-1950). Groups will be accompanied on a designated outside House lot (other than the East Plaza) located as conveniently as possible to the function, and based upon the space available.

Violations

Violations include, but are not limited to:

- Failure to display proper identification (license plates and parking permit or Member plate)

while in a garage, lot, or designated on-street parking area

- Failure to park in the assigned space, garage, lot, or parking area
- Failure to park within marked spaces
- Improper use of a Member plate
- Unauthorized parking in reserved spaces
- Storing of a vehicle in any House garage, lot, or designated parking area

Notice of violation(s) will be provided as follows:

- 1) Written notice, from House Garages and Parking Security, placed on vehicle;
- 2) Phone call to permit holder;
- 3) Letter giving notice of the violation(s), from House Garages and Parking Security, will be hand-delivered to the permit holder and their employing authority.
- 4) If the permit holder fails to take corrective actions within two days of the receipt of the letter, the Office of Garages and Parking Security will remove the permit from the vehicle.

Vehicles that are determined to be a security risk or create a hazard will be immediately towed.

BS20

PARKING PERMITS OFFICE

DATE: 04/15/2003

108TH CONGRESS

PAGE: 333

OFFICE OF: REP. CHARLES B. RANGEL
RHOB 2354
PHONE: 54365

NY159301

PERMIT NO	TEMP NO	ISSUED R M	OCCUPANT NAME	LICENSE	MAKE	COLOR
G3W0139	20030103	R M	RANGEL, Charles	NY NYREP15	PT CRUISER	SILVER
G2W0355	20030103					
G2W0355 1	20030305					
G3W0139 2	20030305	R	RANGEL, HON. CHARLES B.	NY USC15	MERCEDES	SILVER
G3W0165	20030103					
G3W0165 1	20030305					
G3W0216	20030103					
GWC0086	20030103					
GWD0073	20030103					
GWD0073 1	20030305					
L040050	20030103					
L070158	20030103					
7	INSIDE SPACES					

CBR 000468

EXHIBIT 3

CSOC.CBR.00029395

Date: 1/27/2005

109TH Congress

NY159301
54365

[illegible]

CBR 000462

110
NY15

Date: 2/26/2007

Parking Permits Office

110TH Congress

Office of: REP. CHARLES B. RANGEL
RHOB 2354

NY159301
54365

Update:

[illegible]

CBR 000448

EXHIBIT 5

CSOC.CBR.00029397



HOME CHA ASSISTANCE FRANKING ABOUT CHA NEWSROOM HEARINGS & LEGISLATION MINORITY SITE CONTACT

COMMITTEE SCHEDULE

< 02/14/10 to 02/27/10 >

S M T W T F S
14 15 16 17 18 19 20
21 22 23 24 25 26 27

View Full Calendar



Next Live Feed:
02/03/2010
1:00:00 PM EST

Topic:
Defining the Future of
Campaign Finance in an
Age of Supreme Court
Activism

Note: Please use
Windows Media Player
or a compatible player
to view the live feed.

SIGNUP FOR E-MAIL
UPDATES

PRESS RELEASES

Brady Remarks on the
Retirement of House
Inspector General
James J. Cornell

HOUSE PASSES
RESOLUTION
ACKNOWLEDGING THE
ROLE OF SLAVE LABOR
IN U.S. CAPITOL
COMPLEX
CONSTRUCTION

HOUSE
ADMINISTRATION
COMMITTEE ADVANCES
LEGISLATION
EXPANDING VOTER
ACCESS

Home > CHA Assistance > Parking

TRANSLATE A+ | A- | Reset



Parking



Parking Policy Overview

1. Parking in the United States House of Representatives garages, lots, and designated parking areas is for Members, staff, and authorized personnel in support of the House of Representatives. Parking in these areas shall be on a "permit only" basis.
2. All vehicles parked in House permit-only areas must display both valid license plates and current parking permits. Current permits must be displayed on the front fork of motorcycles and on the seat support of bicycles. The parking permit must be clearly visible upon entry and remain visible while parked on House premises. In addition to a permit, all staff must display a valid Congressional ID upon entering garages and lots.
3. The House will not be liable for any damage or theft caused to any motor vehicle, or contents thereof, while parked in a House parking garage or on a House parking lot, whether or not the garage or lot is attended.

[Submit a Request Online](#)
[Permits](#)
[Multiple Vehicles](#)
[Unreserved Parking](#)
[Reserved Parking](#)
[Member Parking Plates](#)
[Carpool Parking](#)
[Evening and Night Parking](#)
[Americans with Disabilities Act](#)
[Group and Event Parking](#)


COMMITTEE RESOLUTION 111-4

Resolved, that the Committee on House Administration Parking Policy is hereby adopted, as follows:

Committee on House Administration
Parking Policy
111th Congress
(Effective Date: January 3, 2009)

SITE SEARCH

GO

SITE MAP

HOT ISSUES

Wounded
Warrior
Program



2009
Summer
Interns



HIGHLIGHTS

CVC
Project
Update



Green the Capitol
SEARCH LEGISLATION
(THOMAS)



GO

☐ Bill Number

☒ Word/Phrase

EXHIBIT 6

2/16/2010

Violations**PERMITS**

1. Parking permits must be authorized through the office of a House employing authority and are available only to current House Members and staff holding a valid Congressional ID and current license plate. Permits shall be for the use of the permit holders as authorized by their employing authority only and are non-transferable among employing authorities. See Violations.

2. Members and staff receiving a mass transit benefit are not eligible for parking permits. (This does not apply to bicycles. Members and staff who utilize mass transit benefits can obtain a bicycle permit for the permit-only bicycle racks).

3. Spouses of Members may park in any garage or lot, on a space available basis and will be issued temporary permits if they are not using the Member plate. In addition, spouses will be required to present a Spouse ID.

4. The Director of House Garages and Parking Security will reassign permits upon receipt of written notification on office letterhead and signed by employing authority of the new authorized users and vehicles. Upon termination of employment or retirement, staff must have their permits removed.

5. Employing offices whose terminated staff do not return their parking permits (decals) will be subject to a 30-day waiting period before re-assigning "Irretrievable" permits. The 30-day waiting period begins when House Garages and Parking Security is notified by the employing office of an "Irretrievable" permit. Note: Departing employees may receive a temporary parking permit for their last day(s) of employment in order for a permit to be removed in a timely manner.

6. Non-staff temporary permits may be issued at the request of an employing authority. The location will be determined by House Parking Security. Requests should be on the office letterhead, signed by the employing authority and provide the user's name and vehicle information (make, model, color, and license plate information). The maximum duration of temporary permits is 14 days. An individual may not be issued temporary permits which exceed 14 days in the aggregate in a six month period, unless otherwise authorized by the Committee on House Administration. Registered lobbyists may not receive temporary permits. Transit benefit recipients will only be granted temporary permits when approved by the Committee on House Administration.

7. Authorized permit holders who temporarily need to use an alternate vehicle should contact the Office of House Garages and Parking Security for a temporary permit for that vehicle.

MULTIPLE VEHICLES

1. Members and staff may register more than one vehicle to a single parking permit.

2. Staff with multiple vehicles should register their additional vehicle(s) with their employing office, which will notify the Office of House Garages and Parking Security. Parking permit decals will be applied to each registered vehicle by the Office of House Garages and Parking Security (G2-28 Rayburn).

3. Staff with multiple vehicles may have only one (1) vehicle parked in House permit-only areas at any one time. (See Violations)

4. Staff registering more than one (1) vehicle must show vehicle registration for all vehicles as proof of ownership.

UNRESERVED PARKING

1. Members of the House may choose their unreserved parking space from any available space in the various garages/lots/streets.

2. Unreserved staff parking is available on a first-come, first-served basis in the designated parking areas assigned to the employing office.

3. Staff vehicles, including motorcycles and bicycles, may not be stored in unreserved spaces in House garages, lots, or designated on-street parking areas. "Stored" is defined as being continuously parked in an unreserved space for more than fourteen (14) consecutive calendar days. A vehicle not displaying both a current parking permit and valid license plates will be considered a "stored" vehicle.

RESERVED PARKING

1. Members of the House may choose their reserved parking spaces from any unassigned space in the various garages.

2. Staff must choose their reserved space from the designated parking areas indicated on their permit.

3. Each person who reserves or shares a reserved indoor space incurs additional taxable income as a working condition fringe benefit. Under the tax code and IRS regulations, Members and their employees have imputed taxable income to the extent that the fair market value of Government-provided parking exceeds \$215.00/month. The fair market value of a space at the House of Representatives is \$290.00/month and therefore, as of January 3, 2007, the imputed taxable income is \$75.00/month. These amounts are subject to change. (Contact Office of Payroll and Benefits for current rates at x51435.)

4. Individuals with reserved parking will be permitted to park their vehicles in their designated spaces for an indefinite period of time with valid license plates.

MEMBER PARKING PLATES

Member parking plates are for the use of Member and spouse, as well as for immediate transportation of the Member by staff. Former Members will be permitted to park using either temporary permits or Member parking plates

from previous Congresses, but must also present a former Member ID. The privilege of parking for former Members will not extend to former Members who are also registered lobbyists.

CARPOOL PARKING

House employees interested in carpool parking should contact the Office of House Garages and Parking Security (extension 5-6749). Carpools must have a minimum of two employees from House employing offices.

If multiple vehicles associated with a carpool are found in the House parking areas at the same time, individuals associated with this carpool will lose their carpool privileges for the remainder of the current Congress.

EVENING AND NIGHT PARKING

Off-hour parking for swing shift employees, i.e., 2:00 pm to 7:30 am, will be allowed in House garages and lots based on space availability. Evening parking permits must be authorized through a House employing authority. Offices interested in evening parking should contact the Office of House Garages and Parking Security (extension 5-6749).

AMERICANS WITH DISABILITIES ACT

Staff authorized a parking permit by their employing authority who require accessible parking based on ADA considerations will be accommodated on an as-needed basis in spaces clearly marked for handicapped use. Such permits will come from the pool of permits assigned to the office. Staff will be required to display the State-assigned handicap designation.

GROUP AND EVENT PARKING

Parking for morning and evening functions on the House side of the Capitol Hill complex will be permitted before 8:30 am and after 5:30 pm on designated lots for groups requesting such parking accommodations through a House Member. The request should be made, in writing, on the office letterhead and signed by the Member, identifying the group, the date and time, the location of the function, and the approximate number of vehicles to be parked. Requests should be mailed or faxed to the Director of House Garages and Parking Security (G2-28 Rayburn, fax 6-1950). Groups will be accommodated on a designated outside House lot located as conveniently as possible to the function, based upon the space available.

VIOLATIONS

Violations include, but are not limited to:

- Failure to display proper identification (license plates and parking permit or Member plate) while in a garage, lot, or designated on-street parking area
- Failure to park in the assigned space, garage, lot, or parking area
- Failure to park within marked spaces
- Improper use of a Member plate
- Unauthorized parking in reserved spaces
- Storing of a vehicle in any House garage, lot, or designated parking area

Notice of violation(s) will be provided as follows:

1. First Violation: Written notice from House Garages and Parking Security placed on vehicle;
2. Second Violation: E-mail or letter to permit holder;
3. Third Violation: E-mail or letter to employing authority and permit holder;
4. Fourth Violation: Suspension of parking privileges for thirty (30) days. The employing authority may not issue this permit to another employee during the suspension.
5. Fifth Violation: Suspension of parking privileges for sixty (60) days. The employing authority may not issue this permit to another employee during the suspension.
6. Sixth Violation: Suspension of parking privileges for the remainder of the Congress or 180 days (whichever is greater). The employing authority may not issue this permit to another employee for 90 days.

Staff found to have multiple vehicles in House permit-only areas will have their parking privileges suspended for thirty (30) days and forfeit their multiple vehicle privileges for the remainder of the Congress.

Any permit user on the mass transit list with a vehicle in permit-only areas will have their permit immediately removed from their vehicle.

Vehicles that are determined to be a security risk or create a hazard, as determined by the U.S. Capitol Police, will be immediately towed.

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[PRIVACY POLICY](#)

EXHIBIT 6

2/16/2010

<http://cha.house.gov/parking.aspx>

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